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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 IN RE TERRORIST ATTACKS ON
4 SEPTEMBER 11, 2001,

03 MDL 1570 (GBD)

5 -----x

6 December 15, 2011
7 10:48 a.m.

8 Before:

9 HON. GEORGE B. DANIELS,

10 District Judge

11 APPEARANCES

12 MELLON WEBSTER & SHELLY

13 Attorneys for Havlish Plaintiffs

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15 THOMAS MELLON, III,
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24 BY: ROBERT T. HAEFFLE

25 JD LEE

Attorney for Plaintiffs

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(In open court)

THE COURT: So that we can use this time efficiently, we can turn, I guess, to Mr. Mellon --

MR. MELLON: Yes, your Honor. Good morning.

THE COURT: -- and your application to enter a default judgment against Iran.

What I'd like to do is I've reviewed substantially a significant amount of materials submitted. There are both materials submitted under seal and materials not under seal. What I'd like to do is give you an opportunity to summarize that material here on the public record. I'd like to keep this as a public record, so any reference that you make to sealed documents, just reference that particular file, other than the substance, on the record for those documents.

I've also received and reviewed your proposed findings of fact and conclusions of law in support of the application. And I'm going to use that, unless you tell me otherwise, as a guide to follow you today.

MR. MELLON: Yes, your Honor. Exactly.

THE COURT: And the only other thing that I'm going to ask is if you could give me that on disk.

MR. MELLON: Yes.

THE COURT: So that if you can give me that right away on disk, I can either at the end of this hearing go ahead and adopt it in total or substantially in a form that you've given

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1 to me, and I'll expedite it.

2 MR. MELLON: Your Honor, you'll have that tomorrow.

3 THE COURT: Great. Thank you.

4 Then let me let you go ahead and proceed in the manner
5 in which you believe is appropriate.

6 MR. MELLON: Thank you, your Honor.

7 Your Honor, we have passed up to the Court and law
8 clerk a copy of a PowerPoint that we will be demonstrating for
9 you in the next hour to perhaps, at tops, two hours. We have
10 tried to discipline ourselves to be concise and pithy.

11 First let me begin, with the Court's permission, by
12 one or two introductions.

13 My name again is Thomas E. Mellon, Jr., and I have the
14 honor and pleasure of representing the plaintiffs in the
15 Havlish case. Several of those plaintiffs are here today, your
16 Honor. And I'd just like to acknowledge them, given the nature
17 of their tragedy and their loss. Please stand when I call your
18 name: Ms. Ellen Saracini, Ms. Fiona Havlish, Ms. Tara Bain,
19 and Mikaela, who is the daughter of Fiona Havlish. Thank you
20 very much. Oh Grace. Good Lord. And Grace Godshalk, which
21 her son, William, was also lost in the towers. Thank you.

22 Your Honor, we are mindful of the amount of work that
23 we have submitted to the Court on the Havlish claims. So our
24 goal today was to take those claims and try to make them as
25 centered and as focused as possible.

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1 I'd now like to introduce those lawyers who have been
2 working the case for the last ten years from around the country
3 just, again, to acknowledge them and ask them to please stand.

4 First, working from my left to the right: Mr. Stephen
5 Corr of Philadelphia; Mr. Ed Rubenstone of Philadelphia;
6 Mr. Evan Yegelwel from Jacksonville, Florida; Ms. Mary Beth
7 Ramey from Indianapolis; Ms. Melinda Goldfarb from Birmingham,
8 Alabama.

9 And working again from my left, your Honor, Mr. Tim
10 Fleming, Thomas Mellon, Rich Hailey from Indianapolis; Dennis
11 Pantazis, also from Birmingham; and Bob Flick from Chicago, Bob
12 from Chicago. Oh, wait a second. All right. We got a whole
13 team here that I better not miss this, your Honor. I better
14 not. Dom Winder from Salt Lake City; Mr. JD Lee from
15 Knoxville; and Mr. Jack Corr from Philadelphia; and whoever
16 called that to my attention, thank you very much.

17 Your Honor, just a word about these attorneys. They
18 have worked tirelessly for ten years, travelling to Europe 22
19 times, reviewing thousands of documents, hundreds and hundreds
20 of hours of interviews. What we would like today to do is very
21 briefly discuss the law. And let me explain that.

22 We thought we were going to spend 30 to 40 minutes
23 discussing the law, but the *Owens* opinion came out as we know
24 on November 28th. And the *Owens* opinion goes right down the
25 line, and it involves Iran, Hezbollah and Al-Qaeda. So after

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1 ten years of us writing the law, worrying about the law,
2 analyzing the law, a gift was given to us, a holiday gift on
3 November 28th, and that is the law has been really delineated
4 very specifically.

5 So with the Court's permission, we're not going to
6 spend 30, 40 minutes on the law. We're going to get right to
7 the facts that we think compels your Honor, respectfully, to
8 consider awarding a case against Iran, Hezbollah, and of
9 course, Al-Qaeda.

10 THE COURT: I do have the *Owens* opinion. I did
11 receive that recently from you.

12 MR. MELLON: Thank you, your Honor. We found that
13 very illuminating, and I might honestly say a great relief.

14 Your Honor, here's how we'd like to proceed, with the
15 Court's permission. We have a PowerPoint that we'll be using
16 as an outline, but the PowerPoint follows the findings of fact
17 and conclusions of law. So you will see a parallelism by
18 design.

19 The first presentation will be by Mr. Timothy Fleming,
20 who himself went to Europe 14 times. He will be discussing the
21 overall thematic scheme, who the principals are, who the
22 defendants are and the like.

23 May I have the first slide, please.

24 We had highlighted the sovereign defendants only.
25 There are 16. The nine sovereign defendants in our case are

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1 already in default, and we would ask the Court respectfully to
2 provide a default judgment against the nonsovereign defendants.
3 But it is these 16 defendants here today that compels the
4 presentation of testimony.

5 The next slide, please.

6 Your Honor, before we hear from Mr. Fleming, just a
7 word about the law. We have perfected service in Washington,
8 DC, and then again we perfected service here in the Southern
9 District of New York. So actually, Iran, Hezbollah, and to the
10 extent Al-Qaeda through publication -- they have default
11 entered twice, once December 23rd, out of the District of
12 Columbia, and again on December 27th, here in the Southern
13 District of New York.

14 Jurisdictionally speaking, besides service and
15 entering the default, Iran is designated a state sponsor of
16 terrorism. And most of the lawyers in this room know,
17 certainly all we know that's been since 1984.

18 But, your Honor, this first slide is very important
19 with regard to the following words, because today we hope to
20 prove to the Court that Iran provided the following to Al-Qaeda
21 over the course of years. That material support would be
22 defined as any property, tangible or intangible, and here we
23 go, this is what Iran did: They provided service, including
24 currency or monetary instruments and financial securities,
25 financial services; they provided lodging; Iran provided

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1 training; they provided expert advice and assistance to
2 Al-Qaeda. Iran provided safe houses, false documentation and
3 identification. They provided Al-Qaeda with communications
4 equipment. They provided Al-Qaeda with facilities, weapons,
5 lethal substances. They provided Al-Qaeda with explosives,
6 personnel and transportation. In other words, your Honor, for
7 jurisdictional purposes, we must show some material support.
8 We hope to show the Court in the next hour an abundance of many
9 different types of material support.

10 Finally, for jurisdiction, our plaintiffs are US
11 nationals. And, of course, we cite as last comment on the law,
12 the *Owens* case.

13 Your Honor, I believe that brings us to the part of
14 our presentation where Mr. Timothy Fleming will be giving us
15 the overview, the general themes of what we investigated. I
16 will return for purposes of specifically and detailedly
17 defining our expert reports. They are 1,100 pages. I know
18 that's way too much, but I think I can break it down to 50
19 paragraphs with a little time.

20 Your Honor, at this time, Mr. Timothy Fleming.

21 MR. FLEMING: Good morning, your Honor.

22 This morning I'm humbled to present evidence on behalf
23 of the Havlish plaintiffs, who have been appointed by my
24 colleagues to present a substantial portion of the evidence
25 that we've submitted to the Court in this case.

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1 The evidence in this case demonstrates that the
2 Islamic Republic of Iran, the principal defendant, as well as
3 the defendants, agencies and instrumentalities of Iran,
4 including its terrorist proxy organization, Hezbollah,
5 materially and directly supported Al-Qaeda's attacks on the
6 United States on September 11, 2001.

7 Iran's material and direct support for Al-Qaeda
8 included the facilitation of the hijackers' international
9 movements and coordination of activities, to conceal the
10 hijackers' travel to the Al-Qaeda training camps in Afghanistan
11 almost a year before 9/11. The evidence also shows that Iran
12 had preknowledge that the 9/11 attacks were to occur and that
13 Iranian officials met with Al-Qaeda plotters before and after
14 9/11. And the evidence shows that the 9/11 attacks themselves
15 were based upon a contingency plan for attacking the United
16 States that was designed by Iran.

17 Finally, after 9/11 occurred, Iran facilitated the
18 escape of Al-Qaeda leaders and operatives from Afghanistan at
19 the time of the United States invasion. And thereafter, Iran
20 provided years of safe haven and refuge for hundreds of
21 Al-Qaeda operatives and major Al-Qaeda leaders inside Iran,
22 where they continued to engage in terrorism and to direct
23 terrorist activities in the Middle East and throughout the
24 world.

25 Now, to understand the role that Iran and Hezbollah,

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1 as well as the other agencies and instrumentalities played in
2 9/11, we must trace some of the history of the Iran, Hezbollah
3 and Al-Qaeda relationship, which I will try to describe as
4 briefly and as economically at least as possible, but it is
5 rather detailed and it is tremendously important.

6 Now, there are evidentiary references -- excuse me.
7 There are references to the evidentiary record in the
8 voluminous materials that we have already submitted to the
9 Court last May, July and August in our findings of fact, as
10 well as in our lengthy briefs. So I won't attempt to repeat
11 them here. However, I will make some -- as your Honor pointed
12 out, I will make some references to the sealed testimony, and I
13 will -- for those items I will try to supply some specific
14 references. We could do that also in writing, if you would
15 prefer. They are not in the PowerPoint or in the binders that
16 you have.

17 Now, with respect to that yesterday, we filed a motion
18 to partially unseal evidence. And the purpose of that was
19 because, as we had previously explained to the Court when we
20 filed the motion to seal the testimony, principally the
21 testimony of the three defector Iranian defector witnesses,
22 there were major concerns about their safety and security,
23 which continue to this day for certain.

24 However, we have been able to at least secure the
25 agreement of the person I formally identified as witness X to

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1 reveal his name and to reveal his evidence with certain limited
2 exceptions. And that is why I said motion to partially unseal
3 even as to witness X. It's very limited portions. We actually
4 have someone still scouring the transcript to make sure that we
5 can eliminate from the public record references to people who
6 would be in great danger, other than witness X, those people
7 being in Iran principally.

8 And so what we propose to do, if your Honor is
9 disposed to grant the motion to partially unseal, would be to
10 refile witness X's testimony both as to the transcript and as
11 to the videotaped testimony that would eliminate various small
12 portions which are designed to try to assure the safety of
13 people. We could do that very quickly, particularly as to the
14 transcript. The videotape might be a little bit -- we may have
15 to do some editing, but if your Honor is disposed to grant that
16 motion, that is how we would like to proceed.

17 THE COURT: I don't think I received a motion. You
18 just filed it electronically? I don't think I received a copy
19 in chambers.

20 MR. CORR: Your Honor, it was filed electronically
21 probably around 3:30 yesterday afternoon.

22 THE COURT: So I was not notified that -- do you have
23 a courtesy copy that I can review or discuss? Otherwise, I'll
24 pull it down when we come back to it.

25 MR. FLEMING: I'm sorry, your Honor. We don't seem to

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1 have a paper copy of it. I can say it was fairly general and
2 didn't include even all the details that I've just related.

3 Now, it should be understood that as your Honor may
4 recall, there is also a sealed affidavit of the person known as
5 witness X. That was always intended to be permanently sealed,
6 and that would not come within the purview of the motion to
7 unseal. And so that, as well as my affidavit explaining some
8 of those circumstances, would remain under seal.

9 THE COURT: Do you have with your motion a carefully
10 drafted proposed order in terms of what you think would be
11 consistent with that partial unsealing?

12 MR. FLEMING: I don't think we filed something that
13 would fit that description. Yes, your Honor, but we can do so
14 certainly by tomorrow, or we can do it -- I can do it verbally
15 right here.

16 THE COURT: Well, I would do it in the form that you
17 think will release that much of the material and no more than
18 the material than you intended. I don't want to inadvertently
19 unseal something that, the way you're describing it now, under
20 certain things, you say still should remain under seal. So if
21 you could either articulate it clearly on the record or craft
22 it for my signature, which is probably the better thing to do,
23 go ahead and craft it carefully for my signature. I'll pull
24 the motion up now, start reviewing it now so I can sign it as
25 soon as you submit it, if it conforms with the motion.

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1 MR. FLEMING: It was my intention, your Honor, this
2 morning to discuss the testimony of witness X and reveal his
3 name as part of my presentation, which, of course, would be
4 consistent with the parameters that we would be suggesting. Is
5 that all right?

6 THE COURT: And you're asking, at least to the extent
7 that you want to discuss it today, that it be unsealed for that
8 purpose --

9 MR. FLEMING: Yes, your Honor.

10 THE COURT: -- to that extent during this discussion?
11 I will grant that motion, and then I will formally consider and
12 grant the entire motion, as you've laid it out, as soon as we
13 pull the papers and I start looking at it. And then I will
14 sign an order consistent.

15 MR. FLEMING: Thank you, your Honor.

16 MR. MELLON: Your Honor, if I may speak to it, we have
17 just received permission from what has been known as witness X
18 heretofore to release his name to the public and to discuss his
19 testimony today before the Court. But that permission came
20 only within the last 36, 48, 72 hours. And that is why there
21 has been a last-minute paper rush. And I think that explains
22 it. But we are prepared to tell you about his testimony today.

23 THE COURT: Okay. On that basis I will grant that
24 motion to that extent, and then I'll review the complete papers
25 and sign a broader order.

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1 MR. MELLON: Thank you.

2 MR. FLEMING: To begin, your Honor, due to the default
3 of all the defendants in this case, the Court may take as
4 true -- the allegations of the complaint as true. And that
5 would include, of course, the fact that 9/11 occurred and that
6 the decedent, the plaintiffs' decedents, were all victims of
7 those terrorist attacks. And we will be proceeding on that
8 assumption that that is the case.

9 Additionally, your Honor, I'd like to offer the
10 exhibits that plaintiffs have already submitted to the Court
11 and move their admission into evidence. Those exhibits are
12 detailed in the list of exhibits that were attached to
13 plaintiff's first memorandum of law; that is, the public --
14 what we refer to generally as the public brief. And we would
15 move into evidence Exhibits 1 through 20, Exhibit 22 through 25
16 and Exhibits 29 through 37.

17 THE COURT: Those will be admitted into evidence for
18 purposes of the Court.

19 (Plaintiff's Exhibits 1 through 20, 22 through 25 and
20 29 through 37 received in evidence)

21 MR. FLEMING: Additionally, with respect to the sealed
22 material, your Honor, I would like to offer and move for
23 admission Exhibits S1 through S7 and -- excuse me. Actually,
24 I'm going to move into evidence all of the exhibits, S1 through
25 S44. And to the extent that those include -- and they

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1 particularly do with respect to S1 through S7 -- they include
2 the documents that were offered as exhibits at the time of the
3 videotaped depositions that were taken in this case of
4 witnesses X, Y and Z, and so I would move those to be admitted
5 as well.

6 THE COURT: And those will be admitted into evidence.

7 (Plaintiff's Exhibit S1 through S44 received in
8 evidence)

9 THE COURT: Can you designate for the record which one
10 of those are being unsealed at this point?

11 MR. FLEMING: Yes, your Honor. Being unsealed is
12 Exhibit S1, S2, S3 and S4, again, with the limited redactions
13 that we would need to make.

14 THE COURT: So you're not moving to unseal them in
15 their entirety; you're moving to unseal them with redactions?

16 MR. FLEMING: With redactions, which will be very
17 limited, I believe, your Honor.

18 Therefore, basically it is S5, S6 and S7, as well as
19 the deposition exhibits attached to them which would remain
20 under seal.

21 THE COURT: That are related to this particular
22 witness?

23 MR. FLEMING: That's right. And then actually, I
24 should point out a further detail. We had filed sealed copies
25 of several of the expert witnesses who discussed the

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1 testimonies of the witnesses. We would like to unseal those as
2 well, to the extent that they address witness X. Well, it may
3 not -- and we would like to provide those as well, because they
4 would just remain -- we could keep the redactions as to the
5 other two witnesses for the moment.

6 THE COURT: I think that probably what would be most
7 efficient, is to file unsealed, redacted copies of the sealed
8 documents so that there won't be any misunderstanding about the
9 availability of the totally sealed docket.

10 MR. FLEMING: Very good, your Honor.

11 THE COURT: Those should remain sealed, and you should
12 have permission to file an unsealed redacted copy of those
13 documents to the extent that you move.

14 MR. FLEMING: Very good. Thank you, your Honor.

15 Now, your Honor, the defendant, Islamic Republic of
16 Iran, has engaged in and has supported terrorism as an
17 instrument of foreign policy ever since the Islamic Republic
18 was -- began after the Iranian revolution in 1979. Iran has
19 been waging virtually an undeclared war against the United
20 States and Israel for more than 30 years. This is not a
21 metaphorical sense of a war or rhetorical use of the term.
22 It's a very real and meaningful war, although quite an
23 unconventional one; one that regularly employed the use of
24 criminal acts and unconventional tactics, namely asymmetrical
25 strategies of warfare and terrorism.

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1 The victims, the casualties of this particular type of
2 war, criminal war, have included thousands of innocent victims,
3 including the plaintiffs' relatives who died on 9/11 who are
4 the plaintiffs in this case today.

5 Iran has engaged in this war generally through proxies
6 such as Hezbollah, Hamas, Al-Qaeda and others. And this is
7 particularly important because it gives Iran plausible
8 deniability, which creates or which allows it to avoid direct
9 confrontation with the United States over these things, over
10 these acts. This, as we'll see, will be very important when it
11 comes to the planning of the 9/11 terrorist attacks.

12 Now, the US State Department has designated Iran as a
13 foreign state sponsor of terror every year since 1984, ever
14 since it began to make those designations, every single year.
15 And indeed, since 1980, each and every one -- and the Republic
16 came into being, Islamic Republic came into being 1979. Every
17 single year since 1980 each of the State Department's annual
18 reports on terrorism describes the Iranian state's consistent
19 involvement in acts of terror.

20 Now, briefly, your Honor, the two individual
21 defendants in this case, the two individual defendants, the
22 first is the Ayatollah Ali Hoseini Khamenei. He is the Supreme
23 Leader of Iran, and he is certainly the most important and
24 powerful official in Iran. He has the authority to make any
25 decision, religious or political, or to appoint and remove

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1 almost virtually any officer in the government.

2 Khamenei is and has been, since the death of Ayatollah
3 Khomeini in 1989, has been the Supreme Leader of the Islamic
4 Republic of Iran, and his term of office is unlimited. He is
5 the commander in chief of the armed forces. He appoints the
6 head of the military services. He declares war and peace. He
7 can dismiss the elected president of the country, and he has
8 many other powers delineated in the Constitution.

9 The popular media focus on when it comes to all things
10 Iran is to discuss the activities of and words of President
11 Mahmoud Ahmadinejad. This is a fundamental misunderstanding of
12 the governmental structure. Khamenei, the Supreme Leader, is
13 the real policy maker in Iran.

14 Secondly, the defendant Ali Akbar Hashemi Rafsanjani,
15 the former president of Iran from 1997, was the Speaker of the
16 Parliament during the 1980s, when Ayatollah Khomeini was the
17 Supreme Leader. Rafsanjani is also one of the wealthiest
18 individuals in Iran. And he was certainly, without question,
19 the second most powerful figure in the Iranian government on
20 September 11, 2001; indeed, from 1980 on to at least 2005. And
21 he continues to hold very important posts to this day.

22 Khamenei and Rafsanjani both have long records of
23 direct involvement in Iran's material support for terrorism.
24 And they have been cited in as key figures in many court cases
25 in the federal courts of the United States and abroad, finding

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1 Iranian state support for terrorism, and some of which have
2 specifically named them as directing and ordering terrorist
3 attacks, murders, assassinations, bombings and so forth.

4 One of those cases is known as the Mykonos case, which
5 involved the -- in Europe, in Germany, involved the
6 assassination of several Kurdish dissident leaders in a Greek
7 restaurant in Berlin. The Court in Germany found that Khamenei
8 and Rafsanjani personally ordered the assassinations to occur.

9 The defendant Iranian Revolutionary Guard Corps, the
10 acronym being the IRGC -- I will generally use that term, also
11 known and discussed in the evidence in this case in some of the
12 testimony as the Sepah Pasdaran, or simply the Sepah, or simply
13 the Pasdaran -- that is an agency, that is an elite military
14 force that is an agency and instrumentality of the Supreme
15 Leader. It is answerable only to the Supreme Leader and to the
16 concept of the Iranian revolution itself. It is parallel to
17 the regular army. It is not subject to parliamentary
18 supervision and it is not part of the formal government
19 structure. It is a force unto itself. As appointed by the
20 Constitution of Iran, it is the guardian of the Islamic
21 revolution. And it is its striking force as well overseas.

22 It is also, the IRGC is also a major force in the
23 Iranian economy. It holds billions of dollars of assets and
24 government contracts in virtually every sector of the Iranian
25 economy, including oil and gas, engineering,

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1 telecommunications, infrastructure. It owns and controls the
2 Khomeini Airport in Tehran.

3 The IRGC also engages in widespread criminal activity,
4 including smuggling, drugs and alcohol and other things, and it
5 is also deeply, deeply involved in terrorism. The IRGC has a
6 special division called the Qods Force. Qods is Arabic for
7 Jerusalem, which refers to the retaking of Jerusalem some day,
8 the goal of retaking it. The Qods Force, or Jerusalem force,
9 works with a militant overseas terrorist organization --
10 terrorist organizations abroad promoting it and directing it
11 and training for it. It has a long history of engaging in
12 coups, assassinations and terrorist activities of every stripe.
13 It is one of the most organized, disciplined and violent
14 terrorist organizations in the world.

15 Witness Y, one of the sealed witnesses, was a former
16 member of the IRGC's Qods Force. And he testifies at length
17 about it, as do many of our experts. The United States
18 Treasury Department has designated the Qods Force as a
19 terrorist organization for providing material support to the
20 Taliban of Afghanistan and many other terrorist organizations.
21 The State Department has designated the IRGC itself as a
22 foreign terrorist organization.

23 The defendant MOIS is the Ministry of Information and
24 Security, roughly an analog to our CIA but without the rules.
25 It is a well funded, disciplined and skilled intelligence

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1 agency with an annual budget of somewhere between 100 and 400
2 million dollars. All three of the Iranian defector witnesses
3 X, Y and Z, are former members of the MOIS. All testify at
4 great length about it. Indeed, witness Z testifies in
5 tremendous length about the structure of MOIS and his career in
6 it.

7 And I will have more to say about that in just a
8 moment. The predecessor of the MOIS was not SAVAK, which is
9 the Shah's intelligence agency, but rather a nameless
10 intelligence agency created by Ayatollah Khomeini in the early
11 days of the republic which was answerable only to him and
12 assassinated people, dissidents or opponents at his command
13 now. Many of the State Department reports, annual reports on
14 global terrorism over the past 25 years discuss the MOIS as a
15 key facilitator of terrorism throughout the Middle East and the
16 world.

17 Now, in the 1990s there was a series of domestic
18 murders, dozens of murders of intellectuals, writers,
19 journalists and opponents of the regime. These were known in
20 Iran as the chain murders. This led -- when it was discovered
21 publicly, and the information did get out that MOIS was deeply
22 involved, was, in fact, doing the murdering, and that this led
23 to some limited reforms in order to protect certain officials
24 in the government, led to certain limited reforms of the MOIS.

25 But Ayatollah Khamenei by that point is the defendant

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1 in this case. Ayatollah Khamenei was the Supreme Leader by
2 that time. He then went back to Khomeini's original idea of a
3 nameless special intelligence apparatus answerable only to him,
4 and he formed a new special intelligence apparatus which has no
5 name. We call it the Supreme Leader's special intelligence
6 apparatus in our papers. But it reported directly to him and
7 is completely under his control.

8 Witness Z testifies at great length about the creation
9 of the special intelligence apparatus, its structure and
10 function and even presents organizational charts showing how
11 the special intelligence apparatus is structured. Witness Z's
12 testimony in that regard is in Exhibit S7 at pages 24 through
13 40 and includes Deposition Exhibit 6.

14 Witness X and witness Y also discuss it. And witness
15 Y's testimony, who also was very knowledgeable about the special
16 intelligence apparatus, is in Exhibit S6 at pages 6, 14 to 18
17 and 53 to 54.

18 Witness X discusses it in S3 at 24 to 39, but that
19 will be unsealed.

20 Now, beyond the special intelligence force, beyond the
21 IRGC and beyond the MOIS and the Qods Force, and the IRGC's
22 Qods Force, the entire apparatus, the truth is the entire
23 apparatus of the Iranian government and many parts of Iran's
24 private sector, companies, private individuals, all are at the
25 service of the Supreme Leader, the MOIS and the IRGC in the

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1 service and support of terrorism, if they want them to be.

2 Witness X actually testifies a great deal about that in his
3 testimony, and this will be discussed as well a bit later.

4 Now, the next defendant is an organization Hezbollah.
5 Hezbollah today is the de facto government of Lebanon, but it
6 was created by Iran specifically in the early to mid1980s in a
7 reaction to the Israeli invasion of Lebanon when it sought to
8 drive out the PLO.

9 But Iran sent its -- the IRGC, Qods Force into Lebanon
10 to create a resistance force. This became Hezbollah. They did
11 it as an extension of the Iranian revolution itself into
12 Lebanon, with aims of going even beyond.

13 Now, Iran ever since then has been a total sponsor and
14 controller of Hezbollah. Hezbollah is, in fact, an agency and
15 instrumentality of the Iranian government. It is funded by the
16 Iranian government to the tune of 100 to 500 million dollars
17 annually, direct financial support, cash, as well as untold
18 amounts of equipment, weapons and training.

19 From the beginning, from the very beginning, Hezbollah
20 has served as a terrorist proxy organization for Iran, and the
21 US State Department has so designated it, Hezbollah, as a
22 foreign terrorist organization ever since 1997.

23 Imad Fayeze Mughniyah is a very important player in the
24 facts of this case. Imad Mughniyah, also known as the Hajj
25 Radwan, was for three decades prior to his assassination in

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1 Damascus, in Syria. In February 2008 he was the terrorist
2 operations chief of Hezbollah. And all that entire time he was
3 an agent of Iran, recruited by Iran specifically for this role.

4 Mughniyah played a critical role in many -- in a long
5 string of imaginative and high-profile and vicious terrorist
6 attacks across the globe, including many, many terrorist acts
7 directly against United States citizens during the '80s and
8 '90s.

9 Mughniyah was the central figure what's called the
10 Lebanon hostage crisis of the 1980s. All of the university
11 officials, business people, reporters and CIA agents,
12 prominently, the Beirut station chief in Beirut, William
13 Buckley, all kidnapped by Hezbollah, directed and personally
14 executed in many instances by Imad Mughniyah. William Buckley
15 in particular was tortured to death by Mughniyah at his own
16 hands. He directed the hijacking of a TWA flight in which the
17 Navy diver by the name of Robbie Stidham was murdered and his
18 body dumped on the tarmac of the airport in the 1980s. That
19 was a subject of a federal case, *Stidham v. Iran*.

20 Mughniyah's activities in this regard was in part,
21 large part to affect United States policy in the Middle East.
22 The Lebanon hostage crisis, for example, led directly to the
23 Iran-contra affair. The goal of Iran through its agent
24 Hezbollah, the goal was to drive the United States out of the
25 Middle East and to reduce the American presence and influence

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1 throughout the Middle East, which Iran seeks to displace, seeks
2 to take the place of.

3 Now, Mughniyah himself was on the FBI's Most Wanted
4 List for 21 years until his death. He was personally
5 responsible for two bombings of the United States Embassy in
6 Beirut, Lebanon, in 1983. He was personally responsible for --
7 indeed, took a film of the execution of the truck bombing of
8 the marine barracks in Beirut in 1983. Significant about that
9 is that Mughniyah -- and this was his first, the first time he
10 had done it -- created and perfected the art, if you will, of
11 simultaneous terrorist acts. In that particular case he truck
12 bombed the marine barracks and the French paratroopers'
13 quarters outside the Beirut airport simultaneously.

14 By the way, those facts were found in the case of
15 *Peterson v. Iran*, and Iran and Hezbollah were held legally
16 liable for the marine barracks bombing in 1983.

17 Now, a popular -- sometimes in the media there's
18 references to the notion that Sunnis and Shias, the two major
19 sects of Islam, they don't get along. They don't work
20 together. They don't deal with each other. That might be true
21 on a street level, but the truth is that that is -- especially
22 when it comes to matters of terrorism, that is a popular
23 misconception. The conventional wisdom is wrong, and the many
24 experts, as Mr. Mellon will describe later, many of our experts
25 debunk that conventional wisdom as being absolutely wrong when

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1 it comes to matters of terrorism.

2 Indeed, the 9/11 commission report itself stated
3 clearly that the relationship between Al-Qaeda and Iran
4 demonstrated that Sunni/Shia divisions did not necessarily pose
5 an insurmountable barrier to cooperation in terrorist
6 operations. Indeed, the fact is that Iran and Al-Qaeda in
7 particular are ruthlessly pragmatic forces, and they will cut
8 deals with potential adversaries whenever and wherever it will
9 advance their own causes.

10 Now, Iran in particular, though it is Shiite
11 generally, a Shiite majority nation, has demonstrated it is
12 quite willing to use, coopt and support Sunni people, Sunnis,
13 as their proxies in order to carry out acts of terrorism.

14 Religious difference, to the extent they even exist at
15 that point on the leadership level, is trumped by the leaders'
16 desire to confront common enemies, particularly the United
17 States and Israel, which are, of course, known as the great
18 Satan and the lesser Satan in Iran and throughout Muslim --
19 Islamic terrorist organizations.

20 One of the witnesses in this case is the first elected
21 president of Iran, Abulhassan Banisadr. We took his
22 testimony -- and that is unsealed already -- we took his
23 testimony in France in 2005. Banisadr was a -- as the first
24 elected president, was a fairly moderate person, and he was
25 statesmanlike and wanted to put Iran on a path of a normal

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1 relationship with nations. He was ousted by Ayatollah
2 Khomeini. He had to be smuggled out before he was
3 assassinated. He's lived in exile ever since. Banisadr
4 testified in this case. He said Iran's leaders don't actually
5 care about Islam. What they care about is power.

6 Now, as part of that, the idea of using Sunnis as
7 proxies, Iran in starting in 1991, 1992, Iran founded a new
8 organization specifically to promote publicly a reconciliation
9 of Sunni and Shia sects of Islam. This dovetailed
10 simultaneously with the ideas and the preachings of the
11 Sudanese political and religious leader Hassan al Turabi.
12 Al Turabi promoted the idea of setting aside the historic
13 bitterness between Sunni and Shia to create a united front
14 against the United States and Israel. He hosted a giant
15 conclave in 1991 of hundreds of mullahs, clerics and hundreds
16 of terrorists who all descended upon Sudan to attend this
17 conclave for this purpose. He established ties to Iran's
18 political leadership and intelligence agencies at that time.

19 Among the people who was resident in Sudan at that
20 time was Osama bin Laden, as well as Ayman al Zawahiri, who
21 around that time came together to form what we -- solidified
22 what we now know as Al-Qaeda. Bin Laden and Zawahiri accepted
23 this concept, and the leadership of Iran as we know it was
24 already on that path. They all came together during that time
25 frame, and discussions in Sudan between those parties led to an

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1 informal agreement to start to cooperate against the United
2 States and Israel.

3 Now, when those discussions start, led to the
4 beginnings of exchanges of training where Al-Qaeda operatives
5 were sent to Iran to receive training, particularly in
6 explosives, as well as being sent to Lebanon for training with
7 Hezbollah. This all led to a historic meeting in 1993 in
8 Khartoum, Sudan. This meeting, as we know, was arranged by a
9 man named Ali Mohammed, who now resides in the United States
10 federal prison.

11 Ali Mohammed is a confessed terrorist. He was a
12 bin Laden bodyguard. He is the fellow who was a member of the
13 United States military for many years but he was exposed,
14 ultimately, and convicted for his part in several terrorist
15 attacks that will be discussed in a few moments.

16 As part of his plea allocution, Ali Mohammed
17 confessed -- or described setting up the meeting, or helped
18 setting up the meeting in 1993 in Khartoum, Sudan. That
19 meeting was attended by Osama bin Laden and Ayman al Zawahiri
20 on behalf of Al-Qaeda, as well as Iran's and Hezbollah master
21 terrorist Imad Mughniyah and a number of very prominent Iranian
22 officials, including the IRGC brigadier general Mohammad Baqr
23 Zolqadr.

24 This 1993 meeting in Khartoum led to an alliance, an
25 actual alliance between Iran, Al-Qaeda and Hezbollah to jointly

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1 cooperate, support each other and to carry out terrorist acts
2 against the United States and Israel. In particularly
3 significant was that Imad -- up until that time bin Laden's
4 history was that he was a guerilla fighter in Afghanistan. It
5 was Imad Mughniyah who made him into a terrorist, starting
6 then, and he convinced him in particularly, in particular about
7 the effectiveness of suicide bombings in -- that he had
8 demonstrated in the 1980s in the acts that -- previously
9 described, which had the effect basically of getting the United
10 States military out of Lebanon in the mid-'80s. He convinced
11 Bin Laden that this was the right tactic; this was the
12 effective tactic. And that is what bin Laden and al Zawahiri
13 embraced.

14 This meeting led to ongoing communications, training
15 arrangements and operations among Iran, Hezbollah and Al-Qaeda
16 that continued on throughout the '90s. Bin Laden sent more of
17 his terrorist operatives to Hezbollah training camps that were
18 operated by Mughniyah, both in Lebanon and in Iran, inside
19 Iran. One of those trained was a man named Saif al-Adel, who's
20 become the number three person in Al-Qaeda and the chief of the
21 military operations. And he becomes a significant player in
22 these facts as well, which I will mention in a few moments as
23 well.

24 Among the Hezbollah training of the Al-Qaeda
25 operatives and the IRGC training of Al-Qaeda was training in

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1 how to bomb large buildings, as well as intelligence and
2 security. One of the others who fit by the way, who
3 coordinated this training, was a man by the name by Majid
4 Kamal. He was an IRGC commander who had performed this
5 training function and this training coordination function at
6 the creation of Hezbollah. He returned for repeat performance
7 then in the '90s assisting in this very same function.

8 Now, after the terrorist alliance was formed,
9 al Zawahiri repeatedly visited Tehran during and throughout the
10 1990s, developed relationships with MOIS and IRGC, including
11 the MOIS Chief Ali Fallahian and the Qods Force chief Ahmad
12 Vahidi, both notorious players in many terrorist acts yet to
13 come throughout the '90s. Then the training arrangement
14 continued, coordinated by Imad Mughniyah and the IRGC officers.

15 The witness Y testified -- witness Y was one of those
16 trainers. And he testifies in great detail about his
17 activities in Lebanon as an IRGC terrorist trainer in his
18 deposition, Exhibit S5, at pages 42 to 52 and 66 through 73.

19 Witness Z testifies about training camps inside Iran
20 for terrorists that he personally was aware of. Witness Z
21 testifies about S7 at pages 117 to 118.

22 Witness X testifies to those as well, but, again, that
23 will be unsealed.

24 Terrorist attacks thereafter -- the formation of the
25 terrorist alliance between these three entities then led to,

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1 directly to a pattern of terrorist strikes directly against the
2 United States and its allies during the 1990s. In March 1992
3 Hezbollah terrorist team operated directly under Imad
4 Mughniyah, truck bombed the Israeli embassy in Buenos Aires,
5 Argentina. Many casualties, many killed and wounded. United
6 States National Security Administration, NSA, intercepts of
7 communications from Iranian embassies in Buenos Aires and
8 Brasilia to the foreign ministry in Iran proved beyond doubt
9 that Iran itself was involved in the 1992 attack on the Israeli
10 embassy in Buenos Aires.

11 Indeed, as our expert, Ronen Bergman, from Israel
12 describes in his affidavit, the proof was unequivocal. It was
13 not a smoking gun but a blazing cannon of proof that Imad
14 Mughniyah and another senior Hezbollah member, Talal Hamiaa,
15 actually executed this terrorist operation.

16 In July 1994 Mughniyah and a Hezbollah sleeper cell
17 struck again, a follow-up bombing in Buenos Aires, Argentina,
18 when they truck bombed the Asociacion Mutual Israelita
19 Argentina, otherwise known as the AMIA, Jewish cultural center
20 in Buenos Aires. United States investigation, Israeli
21 investigation and Argentina all concluded that Iran, Hezbollah
22 and Imad Mughniyah were responsible for the AMIA bombing.

23 In fact, the Argentinian investigators determined that
24 the decision was taken at the highest levels of Iran's
25 government. And they indicted nine major officials of Iran,

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1 including Imad Mughniyah, but also including the Supreme
2 Leader, the defendant Khamenei in this case, and then president
3 Rafsanjani, also a defendant in this case, among others. The
4 Argentines then sought the issuance of Interpol red notices for
5 all nine.

6 And what followed then was an extraordinary, in fact,
7 unprecedented attempt by Iran to try to block Interpol from
8 issuing red notices for its president and Supreme Leader, as
9 well as the others. After a long battle at Interpol, notices
10 were -- red notices were issued for six. They managed to avoid
11 Khamenei, Rafsanjani and the ambassador to Argentina being
12 sought by Interpol, but as affidavit of Edgar Adamson
13 describes, it was an unprecedented activity at Interpol at that
14 time.

15 In July 1995, Ayman al Zawahiri's Egyptian gunmen, who
16 were supported trained and funded by Iran, attempted to
17 assassinate Egyptian president Hosni Mubarak in Addis Ababa,
18 Ethiopia. That attempt failed. However, what followed was
19 that the IRGC extricated some of the assassins from Ethiopia
20 and arranged for their protection by Hezbollah in Lebanon and
21 for the team leader of that assassination attempt, they
22 protected him. They gave him refuge inside Iran itself.

23 In May 1996, after extraordinary pressure from the
24 United States and the Saudis and Egyptians, Sudan actually
25 expelled Bin Laden and he relocated to Afghanistan. What's not

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1 generally known about that is that his relocation was
2 materially assisted and coordinated by a Sunni warlord, an
3 Afghan named Gulbuddin Hekmatyar, who is a strong ally -- he's
4 from western Afghanistan. He's a strong ally of Iran -- and
5 that Bin Laden's relocation was accomplished with the direct
6 assistance of the Iranian intelligence services.

7 Shortly after Bin Laden relocated to Afghanistan was
8 the 1996 truck bombing of the Khobar Towers in Saudi Arabia.
9 This is the American servicemen's housing complex. A
10 devastating truck bomb killing 19 soldiers and wounded more
11 than 500.

12 The FBI had been engaged in an unprecedented overseas
13 investigation. The FBI investigators concluded that the Khobar
14 Towers operation was on the direct orders of the Iranian senior
15 government leaders. The bombers were trained and funded by the
16 IRGC in Lebanon. And indeed, the 9/11 Commission looked at
17 this as part of the pattern of Al-Qaeda violence, terrorism,
18 and the 9/11 Commission itself said that it examined CIA
19 documents that established that it was the -- actually, it was
20 the IRGC Qods Force commander Vahidi who planned the Khobar
21 Towers attack, along with Ahmad al Mugassil, who was an
22 Al-Qaeda operative.

23 A US District Court in Washington, DC, held that Iran
24 was, in fact, factually and legally responsible for the Khobar
25 Towers bombing. That's the Heiser case, vs. Islamic Republic

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1 of Iran, about 2006.

2 The Al-Qaeda, as you know, was involved in planning,
3 so Iran was as well, but so was Imad Mughniyah. And witness Z
4 testifies of his personal knowledge of Mughniyah's involvement
5 and Iran's involvement in the Khobar Towers bombing. His
6 testimony in Exhibit S7 at pages 100 to 101 and 111 to 112 is
7 specifically about their involvement in the Khobar Towers
8 bombing.

9 Now, indeed, you know it's known that Bin Laden
10 facilitated shipment of explosives to Saudi Arabia and was, in
11 fact, congratulated on the day of the Khobar Towers bombing on
12 a satellite phone which was intercepted by the United States
13 NSA. Now, just two months later, Osama bin Laden issued his
14 first fatwa against the United States, basically a declaration
15 of war against the United States. And he specifically cites
16 the Khobar Towers bombing as part of his premise for doing
17 that.

18 Now, so Khobar Towers is very, very clear instance in
19 which the involvement of all three, Hezbollah, Iran and
20 Al-Qaeda, were clearly involved together, acting together.

21 At that same time in August of 1996 an Iranian
22 intelligence operative who was directly involved in the Khobar
23 Towers bombing visited Osama bin Laden in Jalalabad,
24 Afghanistan and the subject of a continuing strategic agreement
25 to undertake a joint terrorism campaign against the United

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1 States. And at that same time one of his associates, most
2 dangerous associates, was in contact with Mughniyah's offices
3 in Beirut. And the training and transfer of equipment and
4 material and knowledge between Iran and Hezbollah and Al-Qaeda
5 continued.

6 On February 23, 1998, just about a year and a half
7 later, Osama bin Laden issued his second fatwa against the
8 United States, calling for the murder of Americans as the
9 individual duty for every Muslim who can do it in any country
10 in which it is possible to do it.

11 A few months later they struck again. This time it
12 was the United States Embassies in Nairobi, Kenya, and
13 Dar-es-Salaam, Tanzania. Hundreds of miles apart, but the
14 truck bombings, which were devastating in nature, were
15 simultaneous, killing hundreds of people and wounding
16 thousands. This type of attack, the simultaneous spectacular
17 truck bombings by suicide bombers against American symbols of
18 power and influence, is the hallmark of Imad Mughniyah. That
19 would be -- United States District Court held just recently, as
20 your Honor indicated a little while ago, in the *Owens* case,
21 United States District Court held that Iran, IRGC and the MOIS
22 were factually and legally responsible for the US Embassy, twin
23 embassy bombings in 1998.

24 But there's no doubt that it was all three of these
25 entities, Iran, Hezbollah and Al-Qaeda, who carried it out. It

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1 was, in fact, Al-Qaeda operatives who actually carried out the
2 bombings, were the -- provided the suicide bombers, but they
3 were trained by Hezbollah, as found in the *Owens* case, trained
4 in handling sophisticated explosives. And the *Owens* court
5 found that Iran's leaders were aware of and authorized that
6 training and assistance.

7 Again, one of those who had been trained in the
8 Hezbollah camps was Al-Qaeda operative Saif al-Adel. Saif
9 al-Adel was convicted in absentia in the United States for his
10 personal role in the twin embassy bombings, and significantly,
11 Saif al-Adel, as we'll see, spent years after 9/11 in safe
12 refuge inside Iran.

13 Now, the next attack was October 12, 2000. The USS
14 Cole was struck in the harbor of Aden, Yemen, killing 17
15 sailors and injuring many more. Around just that time a US
16 defense intelligence agency analyst by the name of Kie Fallis
17 was actively alerting his superiors that he had found a web of
18 connections among Al-Qaeda, Iranian intelligence agencies
19 controlled by the Supreme Leader and by Hezbollah, as well as
20 other groups, terrorist groups. Indeed, the 9/11 Commission
21 report states at page 240, it says, quote, that Iran made a
22 concerted effort to strengthen relations with Al-Qaeda after
23 the October 2000 attack on the USS Cole.

24 But significantly, the same passage of the 9/11 report
25 also states that during this time frame Iranian officials

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1 facilitated the travel of Al-Qaeda members, including some of
2 the 9/11 attackers, hijackers, through Iran on their way to and
3 from Afghanistan, where they trained at the Al-Qaeda's training
4 camps. Additionally, the types of charges that were used in
5 the USS Cole attack were sophisticated, shaped charges, which
6 is the specialty of Hezbollah as taught to them by the MOIS and
7 IRGC.

8 That leads me to the specific instances of Iran's
9 active involvement in the 9/11 attacks. First, the concept of
10 Iran and terrorist travel. There are two separate but related
11 ways in which Iran furnished material and direct support for
12 the 9/11 terrorist specific travel operation, just the part of
13 the operation that involved getting the 19 hijackers to the
14 United States. But first they had to go to Afghanistan, where
15 they trained for the mission; in fact, had to meet with
16 Bin Laden himself.

17 Now, what happened, the first way in which Iran
18 specifically materially supported this travel operation was
19 that Iran facilitated the transit of Al-Qaeda members into and
20 out of Afghanistan in the year prior to 9/11 by ordering its
21 border inspectors not to stamp the passports of the future
22 hijackers as they crossed the international boundary either way
23 into and out of Iran. That enabled the Al-Qaeda hijackers to
24 enter Iran without any record in their passport that they had
25 done so, to enter Afghanistan. They could only do that by

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transiting through Iran and not having their passport stamped.

Here was the problem they were addressing. 9/11 Commission, of course, if you take what this says on 240, is it contained evidence 8 to 10 out of the 14 Saudi muscle operatives -- excuse me, of the muscle operatives traveled into or out of Iran between October 2000 and February 2001. The problem was this: That the travel to the training camps in Afghanistan was absolutely essential for the hijackers, because they had to train there and meet with Bin Laden and others. Absolutely essential for the success of the operation.

But Al-Qaeda knew that the Americans were well aware of the existence of the Al-Qaeda training camps in Afghanistan. During the Clinton years our military had fired cruise missiles into those training camps already trying to get Bin Laden. They knew that we knew where they were.

They also knew that a terrorist operative who was trying to obtain a visa in the United States Embassy or consulate abroad or who was presenting himself for entry, admission at a port of entry into the United States, could be not only discovered and denied entry or denied a visa, but rather, he could be arrested and interrogated and perhaps the entire plot be unraveled if it became known that they had traveled to Afghanistan. Because Afghanistan was already a terrorist state, that alone would have prevented them from getting a passport or being able to enter. And the entire plot

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1 could have come unraveled. Therefore, they needed to be able
2 to enter Afghanistan without any documentary evidence in their
3 passports.

4 NSA intercepts themselves, which were made available
5 to the 9/11 Commission but were discovered only a few days
6 prior to the report's publication, showed that Iranian border
7 inspectors had been ordered not to tell -- put those stamps in
8 the operatives' passports, and that the Iranians were well
9 aware that they knew that -- were well aware that they were
10 helping operatives who were part of an organization that was
11 preparing attacks against the United States.

12 And this could not happen, this could not possibly
13 happen in Iran without senior leadership knowing about it. It
14 is a police state. They control their borders. The MOIS and
15 IRGC control the borders. There are no rogues who are stamping
16 passports. This was unquestionably -- and the NSA intercepts
17 proved it. The 9/11 Commission knew and concluded that that's
18 what happened. They simply ran out of time. But when they had
19 to publish, because the commission was going out of existence,
20 they didn't have time to follow up on all of this information,
21 which is why the 9/11 Commission concluded on page 241 that a
22 further investigation is needed. That investigation is the
23 investigation that we have done.

24 But to return to the travel problem, what is known
25 from the 9/11 Commission investigation was that three

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1 hijackers, at least three, were known -- we had enough of the
2 passports recovered. They were known to be carrying an
3 indicator inside the passport of what the commission reports as
4 Islamic extremism. It was basically some kind -- apparently
5 was some kind of counterfeit stamp or indicator that they were
6 who they were, they were terrorists. These were the guys
7 you're supposed to not stamp their passports. The commission
8 figured that out. They were probably Al-Qaeda calling cards to
9 identify themselves covertly to the border inspectors in Iran.

10 Therefore, the commission concluded that the actions
11 of the border authorities in Iran, by refraining from stamping
12 the passports of the Saudi hijackers, vastly increased the
13 likelihood of the operational success of the 9/11 plot. That
14 conclusion appears at page 240.

15 Now, interestingly, it's also known that in the
16 mid-1990s the groundwork for this had been laid by an Al-Qaeda
17 operative Mustafa Hamid, who had negotiated a secret
18 relationship with Iran that had already contemplated this type
19 of safe transit to Afghanistan via Iran, and that passageway
20 was managed by -- was to be managed by the MOIS. This is also
21 a conclusion of the United States government that comes from a
22 United States Treasury Department designation in January 2009.
23 So it was known that they made this arrangement.

24 This entire arrangement is confirmed by numerous
25 admissions from Al-Qaeda prisoners at Guantanamo who confirmed

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1 the existence of the clandestine Iran/Afghanistan passageway
2 that was managed by MOIS. As Mr. Mellon will describe for you
3 later, many of our experts also contribute valuable insights
4 into this arrangement.

5 It leads to the second way which Iran actively and
6 materially directed and supported the hijackers' international
7 movements. The commission report specifically finds that in
8 October 2000, a senior operative of Hezbollah visited Iran to
9 coordinate activities there. Excuse me, I misread that.
10 Quote, in October 2000 a senior operative of Hezbollah visited
11 Saudi Arabia to coordinate activities there. He also planned
12 to assist individuals in Saudi Arabia travelling to Iran during
13 November. A top Hezbollah commander and Saudi Hezbollah
14 contacts were involved.

15 Further, the 9/11 report says that in November of
16 2000, a muscle hijacker, one of the muscle hijackers,
17 specifically, Ahmed al Ghamdi, flew to Beirut on the same
18 flight as a, quote/unquote, senior Hezbollah operative.

19 Further, the report states, in mid-November 2000,
20 three of the muscle hijackers, having obtained US visas,
21 traveled in a group from Saudi Arabia to Beirut and then onward
22 to Iran. An associate of a senior Hezbollah operative was on
23 the same flight that took the future hijackers to Iran.

24 Finally, the report also states that Hezbollah
25 officials in Beirut and Iran were expecting the arrival of a

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1 group during this exact same time period. The travel of this
2 group was important enough to merit the attention of senior
3 figures of Hezbollah.

4 The 9/11 hijackers were -- not a single one of them
5 was an important individual. They were all pretty much nobody
6 before 9/11. They were young men who were recruited to engage
7 in this operation. There is no way that their travel would be
8 important enough to merit the attention of senior Hezbollah
9 figures if they weren't, in fact, people who had been recruited
10 for a major terrorist operation.

11 But most significantly of all, the senior operative of
12 Hezbollah that is referenced on pages 240 and 241 of the 9/11
13 report, we know, is the master terrorist of Hezbollah and the
14 agent of Iran, Imad Mughniyah. We have presented to the Court
15 evidence that it was, in fact, Imad Mughniyah. The 9/11
16 Commission report, remember, they wrote these -- they had to
17 write these two pages in the last few days before publication,
18 the last few days of the commission's existence, when these NSA
19 intercepts that proved all of this information was discovered.
20 To put Imad Mughniyah's name would have been basically to turn
21 the table over, because he is, without question, he was,
22 without question, the most dangerous terrorist in the world.
23 But it is known that the senior Hezbollah operative was Imad
24 Mughniyah.

25 Now, because that is true, that means that it's an

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1 agent, a direct and long-time agent of Iran, as well as other
2 Hezbollah officials, senior Hezbollah officials in Lebanon and
3 in Iran had actual foreknowledge of the 9/11 conspiracy. And
4 that much is clear just from pages 240 and 241 of the report.

5 Our three defector witnesses in this case testify
6 repeatedly about the involvement of Imad Mughniyah in the 9/11
7 plot. Witness Y testifies at Exhibit S6 at pages 36 to 45.
8 Witness Z testifies in Exhibit S7, pages 43 to 52 and 62 to 90
9 and 103, as well as 91 to 98. Additionally, important to that
10 is our Exhibits 7 through 10 to witness Z's testimony, which is
11 S7.

12 Once again, the 9/11 Commission after reviewing this
13 evidence concluded that further investigation of these matters
14 was warranted. Again, this group of lawyers conducted that
15 further investigation, and among the first things that we found
16 was it was important information about the individual Ramzi
17 Binalshibh. Ramzi Binalshibh is -- this is in the 9/11
18 conclusion of the 9/11 report.

19 Ramzi Binalshibh was a well placed Al-Qaeda operative
20 who was supposed to be one of the pilots on one of the planes,
21 but he was unable to get a United States visa, which he needed
22 to participate directly as a hijacker. So the 9/11 Commission
23 concluded that that's why he wasn't part of it, but instead he
24 became the coordinator, the overseas coordinator for the entire
25 9/11 operation and a liaison between the Al-Qaeda camps and

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1 Bin Laden and al-Zawahiri in Afghanistan, and in particular,
2 the Hamburg cell of the Mohammed Atta in Germany. So he lived
3 in that apartment with Mohammed Atta, and he was instrumental
4 in the coordination of the entire operation.

5 Now, what we found in our investigation was that eight
6 months before 9/11 occurred Ramzi Binalshibh went to
7 Afghanistan. This was known. But what was not in the 9/11
8 report was that Ramzi Binalshibh stopped in Tehran en route to
9 meetings with the Al-Qaeda leaders in Afghanistan in January,
10 February of 2001. This is Exhibit 18. And we received these
11 documents directly from the German federal prosecutors in
12 Karlsruhe, Germany. Those documents show that the stop along
13 the way for Ramzi Binalshibh between Germany via Amsterdam to
14 Afghanistan, he stopped in Tehran in January.

15 Now, during the time frame that Binalshibh was in Iran
16 or was making that trip, our evidence shows that Iran was
17 hosting a four-day secret meeting of Al-Qaeda terrorists,
18 including Ayman al Zawahiri specifically and Saif al-Adel
19 specifically and many others, as well as the Hezbollah terror
20 chief Imad Mughniyah and many senior Iranian officials, some of
21 whom are named. This is important testimony from Exhibit S7,
22 the testimony of witness Z, pages 73 to 84 of Exhibit S7. So
23 this places Ramzi Binalshibh in Iran at the same time that
24 these meetings occur.

25 Our investigation also turned up a memorandum of

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1 May 14, 2001. And this is in our proof several times. It is
2 an exhibit to the testimony of witness Z, who testifies to the
3 origin and significance of this document. So also available on
4 the Internet now, and it is the attachment B to the affidavit
5 of Ronen Bergman, which is Exhibit 7.

6 The May 14, 2001, memorandum was authored by Ali Akbar
7 Nateq-Nouri. Nateq-Nouri was the overseer, the head guy in
8 charge of its Supreme Leader's special intelligence apparatus.
9 And in that memorandum he says that he is speaking through the
10 Supreme Leader. And he shows, he demonstrates quite clearly
11 Iran's and Hezbollah's full awareness of and involvement in
12 Al-Qaeda's plans for an impending terrorist strike against the
13 United States. Needless to say, this is just a few months
14 before 9/11 occurred. That document -- which, again, is
15 publicly available, but if your Honor would review the
16 testimony of witness Z, it is specifically in his testimony.
17 And it's in the exhibits and testified to in detail.

18 This document has been reviewed and found authentic by
19 the United States and Israeli intelligence, as indicated in
20 Ronen Bergman's affidavit. It was addressed to the head of
21 Iran's intelligence operations, Section 43 of MOIS, Mustafa
22 Pourkanad. It shows Iran's awareness of an upcoming major
23 attack in the United States, and it directly connects Iran and
24 Imad Mughniyah to Al-Qaeda and to the planned attack. It
25 references Iran's, quote/unquote, support for Al-Qaeda's future

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1 plans and cautions to be alert for the possible negative future
2 consequences of this cooperation between Iran and Al-Qaeda. It
3 says, while expanding the collaboration of the fighters of
4 Al-Qaeda and Hezbollah, the Supreme Leader was emphasizing with
5 regard to cooperation with Al-Qaeda that no traces be left that
6 might have negative and irreversible consequences. And that
7 contact should be limited to those already existing with Imad
8 Mughniyah and Ayman al-Zawahiri. A very, very important
9 indication that Iran knew all about and was preparing for
10 potential retaliation from the United States, should Iran's
11 involvement in 9/11 be discovered. At that time it was not,
12 and that's why there was the caution to limit contacts only to
13 Mughniyah, who was the most secretive and skilled of
14 terrorists, and Al-Qaeda's number two, Ayman al-Zawahiri.

15 Now, as part of the Havlish investigation, your Honor,
16 as we've indicated, we had the testimony of the three former
17 MOIS, and in one case, IRGC Qods Force members X, Y and Z;
18 elaborate testimony covering about 28, 29 hours that was taken
19 in 2005 and 2008 overseas. And your Honor has the videotapes
20 as well as the transcripts and exhibits.

21 Witness X has authorized us to reveal his identity,
22 and I want to do so today.

23 Now, this might however, if the Court pleases, this
24 might be a good place for a break before, because I know I've
25 been going a long time. And I sense that this could be a good

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1 time for a break?

2 THE COURT: Sure. Let me give the court reporter,
3 which I'm most concerned about, let's take a five to ten-minute
4 break.

5 (Recess)

6 THE COURT: You can continue.

7 MR. FLEMING: Thank you.

8 Your Honor, witness X is Abolghasem Mesbahi.
9 Abolghasem Mesbahi was an Iranian regime insider from the very
10 beginnings of the Islamic republic, was personally familiar
11 with many of the top regime leaders in the '80s, 1980s and
12 early '90s, was a personal friend from a very early age of
13 Ayatollah Khomeini, was part of his circle, even though Mesbahi
14 was very young.

15 He was born into a well educated family. His mother
16 was a judge during the reign of the Shah. And he was very well
17 educated, something of a child prodigy, finished school at a
18 very early age, got advanced education in Paris at the
19 Sorbonne, speaks five languages. A very, very, very
20 intelligent person who I think that comes across in his
21 testimony, which your Honor has seen.

22 He also knew the defendant Ali Akbar Hashemi
23 Rafsanjani very well, former president of Iran and former
24 speaker of the Parliament and a key player in the Iran/Iraq
25 war. And he tells some stories, he relates some stories of his

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1 exposure to Rafsanjani during that time period. Abolghasem
2 Mesbahi was also a close associate of Saeed Emami, who was the
3 top -- a very top official, the number two official in the
4 MOIS.

5 Mesbahi himself held a number of prominent positions
6 in the diplomatic and intelligence organizations of the Iranian
7 regime, even as a very young man, including a position at the
8 Iranian embassy in France shortly after the Islamic republic
9 came into being. But there he was not really a diplomat. He
10 was a spy, and was in charge of espionage for Iran in France
11 until December 1983, when he was expelled by the French
12 government as persona non grata had he been discovered.

13 He returned to Iran but shortly after returned to
14 western Europe, where he was based in Belgium. And he ran
15 Iran's espionage operations throughout western Europe under a
16 variety of assumed names. Subsequently, Mesbahi played a role
17 in the negotiations on behalf of Iran during the Lebanon
18 hostage crisis of the 1980s. In particular, he was deeply
19 involved in the negotiations surrounding a German hostage named
20 Rudolf Cortés, as he testifies. Mesbahi returned to Iran in
21 the mid-'80s, 1984, '85, to work on the creation of the new
22 intelligence service, MOIS.

23 Now, during the mid1980s Iran's government believed
24 that its best hope in case of a war with the United States,
25 which was always possible -- remember that the four-day Iran

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1 hostage crisis had only ended a few years before. And there
2 were so many -- including the bombings in Lebanon and so forth
3 that we've already discussed. The possibility of the war with
4 the United States was ever present.

5 But Iran knew that it could not win a conventional,
6 head-to-head military confrontation with the United States.
7 Therefore, Iran concluded that its best hope to defeat the
8 United States in case of some kind of a military confrontation
9 was to engage in unconventional or asymmetrical warfare
10 strategies. Therefore, it formed a task force of MOIS agents
11 and IRGC officers that was tasked with creating contingency
12 plans for asymmetrical warfare against the United States.

13 Indeed, the State Department, the State Department
14 itself became aware of this. And in one of the US State
15 Department reports we point out in our brief, the State
16 Department observed that Iran began formulating contingency
17 plans for anti-US terrorist operations in the mid to late
18 1980s.

19 In 1985/1986 timeframe Abolghasem Mesbahi worked with
20 the MOIS/IRGC task force that was creating contingency plans
21 for asymmetrical warfare against the United States. That task
22 force, as Mesbahi testifies in this case, devised contingency
23 plans which were aimed at breaking the backbone of the United
24 States economy, crippling or disheartening its will to fight,
25 breaking the resistance of the United States government and its

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1 people or their appetite for war with Iran and disrupting the
2 American economic social, military and political order, all, if
3 it could risk a head-to-head military confrontation. Mesbahi
4 described it as a breaking plan.

5 The contingency plan's code name was Shaitan dar
6 Atash, which in Farsi means Satan in fire or Satan in hell.
7 Now, among the other things, the Shaitan dar Atash plan, it had
8 many components, but first, some of the tactics that were
9 conceived of and designed were tactics such as chemical weapons
10 and radioactive dirty bombs, to be deployed in American cities,
11 bombing electrical power plants, as many as possible, bombing
12 gas stations, which have, of course, you know, lots of fuel,
13 explosive fuel right on site, bombing oil -- attacking, bombing
14 oil tankers by the hundreds, even the trucks that go along the
15 highways, destroying the railroads.

16 But it also involved, among all those other things,
17 the planning group devised a scheme to crash hijacked Boeing
18 747 aircraft into major American cities. Specifically and
19 principally and always first among the targets were the cities
20 of New York and Washington, DC, as well as Chicago. In fact,
21 as Mesbahi testified, the contingency plan to hijack Boeing 747
22 aircraft were actually, was targeted -- specifically, among
23 other potential targets, were the World Trade Center in
24 New York, the White House in Washington and Pentagon, the
25 Pentagon in Virginia, just across the river from Washington.

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1 Now, the Shaitan dar Atash plan specifically was
2 focused on Boeing 747 aircraft for a reason: They're the
3 largest major airplanes being used at the time. They were the
4 focus of the IRGC and MOIS task force for aircraft hijackings
5 precisely because their large fuel tanks made them suitable for
6 crashing them into high value targets, such as the World Trade
7 Center or the Empire State Building in New York or the White
8 House or the Pentagon.

9 Mesbahi himself was part of the group that devised
10 these contingency plans which existed in Iran, in the military
11 intelligence circles of Iran since the mid to late 1980s;
12 again, contingency plans not necessarily to be used at that
13 time, were not used at the time, but they were planned and
14 ready.

15 Now, Mesbahi himself fell into disfavor with certain
16 hard line elements of the Islamic regime. And as is often
17 happens in Iran, when you fall out of favor with hard line
18 elements in the regime, Mesbahi was arrested and imprisoned
19 several times. And after his release the last time he was
20 banned from government, official government positions.

21 So he started a private business, but he still
22 became -- because as I noted previously, individuals and
23 private corporations are always at the beck and call of the
24 intelligence service when it comes to matters of terrorism.
25 Mesbahi continued to be called upon by MOIS to perform duties

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1 related to intelligence and terrorism support. So he was
2 called upon to use his private business as a cover for those
3 activities.

4 He describes in his testimony working with MOIS front
5 companies involved in transactions such as Iraqi oil sales
6 using reflagged oil tankers. He describes working on the
7 importation of supercomputers and on weapons procurement deals
8 and all kinds of other transactions.

9 Now, in 1996 Mesbahi was told by his colleague and
10 friend, Saeed Emami, who was then the number two official at
11 MOIS, he was told that he had been targeted -- he had been put
12 on a death list, that he was targeted for imminent
13 assassination by his enemies within the regime, the people who
14 didn't like him or like his attitude particularly with regard
15 to his somewhat moderate stance on relations with the West.

16 So Mesbahi fled Iran, based on the tip from Saeed
17 Emami. And he describes how Emami came to his house in the
18 middle of the night to tell him he was going to be killed. So
19 he left everything he had behind and he fled. And he made his
20 way -- got outside of Iran, where he obtained a United Nations
21 refugee card, and ultimately made his way to Germany.

22 Mesbahi has been living in hiding in Europe ever
23 since. But in Germany, he became an informant for the German
24 Bundeskriminalamt, roughly the German equivalent of the FBI.
25 And he was placed in a German witness protection program. He

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1 became a very important informant and witness for the Germans.
2 And at that time he testified anonymously as witness C in the
3 German prosecution of the Iranian-backed assassins of the
4 Kurdish leaders at the Mykonos restaurant in Berlin in
5 September 1992, which I referred to earlier. That German court
6 relied heavily on Mesbahi's testimony in convicting all of the
7 defendants, including the Iranian coordinator, and specifically
8 finding defendant Rafsanjani and defendant Khamenei as having
9 ordered the assassination of those Kurdish dissidents.

10 Mesbahi was witness C. He was the critical witness in
11 the Mykonos prosecution. He was introduced to the Court, in
12 fact, by another witness in that case, and a witness who's also
13 a witness in this case, and that is Abolhassan Banisadr, the
14 first president of Iran who testified in this case as well.

15 The Mykonos trial, as I said, resulted in the
16 convictions of all the defendants. And it led to the German
17 arrest warrant being issued for the MOIS chief Ali Fallahian.
18 The trial exposed the inner workings of the MOIS and the role
19 of the Supreme Leader and the president in matters of
20 terrorism. It also led to an international incident in which
21 the nations of Western Europe withdrew their ambassadors from
22 Iran and suspended what was at that time called the critical
23 dialogue, which was an attempt to gain some kind of
24 international dialogue with Iran. It was all suspended and the
25 ambassadors were withdrawn for a period of time.

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1 But the Mykonos trial also led other European and
2 ultimately South American investigators to try to work with
3 Mesbahi to help them in their prosecutions of terrorists for
4 terrorist attacks that occurred in their countries. And
5 Mesbahi became one of the most important witnesses for western
6 prosecutors who were attempting to prosecute Iranian-backed
7 terrorists.

8 Among those prosecutions was the AMIA bombing in
9 Buenos Aires in 1994, which I described a little while ago. It
10 resulted in indictments of nine top Iranian officials and
11 Interpol red notices for six of them, including the master
12 terrorist of Hezbollah, Imad Mughniyah.

13 This also, the AMIA bombing, the AMIA prosecution
14 heavily relied on the assistance of Abolghasem Mesbahi.
15 Parenthetically, another person who was involved was another
16 witness in this case, Kenneth Timmerman, who's in the courtroom
17 here today and was an instrumental part of the Havlish
18 investigation team.

19 What's important about that, it will become apparent
20 in a moment, because what happened to Mesbahi was this: Before
21 he left Iran, being well versed in code methodology as a top
22 Iranian spy, the head of espionage in all western Europe,
23 before he left Iran, he established code methodologies with
24 some of his trusted friends. Principally among us, he knew
25 that -- he knew a lot of state secrets. And he knew they

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1 wanted to kill him, so he was very concerned that if a death
2 squad went overseas, that his friends be able to alert him.
3 Remember that in the 1980s some 200 Iranian dissidents were
4 assassinated in western Europe. Mesbahi knew this, so he
5 established a set of codes to which he could communicate with
6 trusted friends inside the Iranian government thereafter.

7 That led to the summer of 2001. And on July 23, 2001,
8 as he was accustomed, Mesbahi checked the places in which he
9 received coded messages. He describes a number of ways in
10 which he did receive coded messages from inside Iran, but one
11 of them was through the newspapers, Iranian newspapers, where a
12 code -- where he could -- where he could look -- read a
13 published newspaper and find a coded message embedded therein.

14 On July 23, 2001, Mesbahi received just such a coded
15 message from one of his trusted friends. When he decoded the
16 message, he saw that the message was three words: Shaitan dar
17 Atash, Satan in hell, Satan in fire. But more importantly, it
18 was the name of the contingency plan for asymmetrical warfare
19 against the United States that he was a part of the creation.

20 Mesbahi knew that this coded message meant what it
21 meant, because he was -- of his work on that task force. And
22 he knew that it must have meant that the Shaitan dar Atash plan
23 was being activated somehow, but he still didn't know which
24 aspect of it was. Was it the airliners or was it the oil
25 tankers; the electrical power plants, the railroads? He didn't

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1 know.

2 But he knew it was serious, so he contacted his former
3 handlers when he was in the witness protection program. He met
4 them and told them that he had received this message. He said
5 a big event is going to happen in the United States, a huge
6 terrorist operation, and he asked them to convey the
7 information to higher authorities. The officers said they
8 would convey the information, and they'd let him know what
9 would happen next.

10 But three weeks later, on August 13, 2001, Mesbahi
11 received another coded message from his source in Iran,
12 clarifying that the Shaitan dar Atash contingency plan that was
13 being activated was the plan to crash hijacked civilian
14 airliners into American cities. Again, Mesbahi contacted the
15 German police officers that he knew or the LKA,
16 Landeskriminalamt, which is more of a local police, cut in,
17 told them about the message, pleaded with them for action.
18 Again, they conveyed the message to higher authorities and said
19 they would get back to him if there were further developments.
20 And Mesbahi emphasized that lives were at risk.

21 They didn't get back to him, and two weeks
22 additionally passed. And Mesbahi received a third coded
23 message on August 27, 2001. That third message confirmed the
24 activation of the Shaitan dar Atash plan but added important
25 information that somehow Germany was involved in the facts; not

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1 that Germany was part of it, but, rather, that something, the
2 name of Germany was in the reports that his friend and contact
3 in Iran knew. So he knew that somehow there was something
4 going on in Germany that was related to the Shaitan dar Atash
5 plan.

6 It is now known in the 9/11 Commission report quite
7 clearly that Mohammed Atta, Ramzi Binalshibh, Al-Qaeda
8 terrorist cell that headed the 9/11 attacks was, in fact, based
9 in Hamburg, Germany.

10 Now, on September 11, 2001, Mesbahi saw with the rest
11 of the world that the attacks had taken place. He desperately
12 tried to reach the LKA officers that he knew, and he tried to
13 contact people he knew in the Bundeskriminalamt, but in
14 Germany, just like in the United States, chaos rang. He wasn't
15 able to get through to anybody.

16 A couple of days later he was able to and to reach
17 them and was able to speak with some people, but his
18 information -- it's not clear what happened to his information
19 at that point. But after 9/11, as is set forth in great detail
20 in his testimony, he made repeated efforts to try to convey his
21 inside information to German and American governmental
22 authorities, German authorities in the law enforcement area in
23 Germany and American government authorities at the embassy. He
24 was generally unsuccessful.

25 However, one person that he was able to contact was a

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1 Dr. Akbar Ganji. He was an Iranian dissident in the United
2 States, and Dr. Ganji put Mesbahi in touch with Kenneth
3 Timmerman, who is an Iran expert and investigative journalist,
4 a well known authority in the United States and a person who
5 has actively tried to help the Iranians shake off the yolk of
6 the repressive regime of the mullahs for the last 20 years, an
7 author of many books on the subject and many, many articles in
8 the press, well known to the Iranian exile regime -- excuse me,
9 Iranian exile community in the United States and abroad.

10 Mesbahi succeeded in calling Kenneth Timmerman in
11 September 2001. He told Ken Timmerman about the coded
12 messages. And what is significant about that in particular is
13 that the way Mesbahi related his information about the coded
14 messages was exactly the same as he testified years later in
15 2008.

16 Now, another subject in had which Mesbahi had received
17 information from his sources inside Iran was that he learned
18 that Iran had purchased in 2000, Iran had purchased an aircraft
19 flight simulator through a Chinese company called Fuktdad which
20 is based in Taiwan with which MOIS had relations. And Mesbahi
21 knew about that. Fuktdad had obtained a simulator from AVIC,
22 the Aviation Industries Corporation of China, which is a
23 state-owned entity. Then the simulator was transported to Iran
24 in 2000 by an IRGC front company called Safiran. Safiran was a
25 company that was frequently used for clandestine procurement

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1 and transportation operations by the MOIS and the IRGC, and
2 Mesbahi knew about that, too.

3 Now, finally, that simulator was set up with computer
4 software to program the module to simulate Boeing 757, 767 and
5 777 aircraft, and that software was purchased through, as
6 Mesbahi testified, purchased by MOIS through East China
7 Airlines. And the flight simulator for Boeing 757, 767, 777
8 aircraft was set up in a secure, secret facility at Doshen
9 Tappeh air base near Tehran.

10 Each of the four airliners that was hijacked on
11 September 11, 2001, and used in the 9/11 attacks were either
12 Boeing 757 or Boeing 767 model aircraft. But Iran has never
13 owned a single Boeing 757, 767 or 777 aircraft, and that's due
14 to American trade sanctions against Iran that prohibit it from
15 buying aircraft from Boeing or from any company selling Boeing
16 aircraft. They've never had a single Boeing aircraft, and yet
17 they had the flight simulator for that aircraft. Those are the
18 aircraft that were, in fact, used, were hijacked on 9/11.

19 And when Mesbahi called Ken Timmerman in Washington in
20 September 2001, he also told that story, relayed that exact
21 information to Ken Timmerman in September 2001. It didn't
22 change. His testimony did not change. It's beyond belief.
23 And Ken Timmerman is a personal witness to that. He could not
24 have hatched any such story unless he actually had the
25 information that he was saying. It would have been a

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1 preposterous thing to do. So he didn't make it up. He didn't
2 tell the story the first time in 2008, when we took his
3 testimony. He told it to Ken Timmerman in September 2001.

4 Now, additionally, Mesbahi learned from his sources
5 one other important fact about the 9/11 hijackers, and that was
6 that at least one of them he knew by name, Majid Moqed, was a
7 muscle hijacker on American Flight 77 that hit the North tower
8 of the World Trade Center, had been identified and was being
9 housed in the months before 9/11, had stayed at a IRGC/MOIS
10 safe house called the Hotel Sepid in Tehran, where Mesbahi
11 himself had used, Mesbahi himself had used as an MOIS safe
12 house. That is some of the more important testimony, some of
13 the most important testimony from Abolghasem Mesbahi.

14 Now, I want to address also what occurred after 9/11,
15 and that is that Iran provided safe haven to Al-Qaeda after the
16 9/11 attacks in several significant ways. Most importantly, it
17 provided safe haven to Al-Qaeda leaders and operatives by the
18 hundreds, keeping them safe from retaliation of the United
19 States forces which had invaded Afghanistan in the fall of
20 2001. Hundreds of Al-Qaeda operatives and leaders and their
21 families somehow managed to escape US invasion by entering
22 Iran. That can't happen by accident.

23 In fact, it is known that the IRGC facilitated their
24 exit into Iran, and they then provided them safe quarters and
25 everything from financial services, food, medical services,

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1 everything they needed to live safely. It is known that the
2 Gulbuddin Hekmatyar, the same person who helped Bin Laden
3 relocate with the assistance of the IRGC, relocate from Iran to
4 Afghanistan, now had helped the Al-Qaeda cadres fleeing
5 Afghanistan, helped them get into Iran, as did Imad Mughniyah,
6 as did the Iranian Qods Force commander Ahmad Vahidi.

7 Among the high level Al-Qaeda officials who arrived in
8 Iran from Afghanistan at that time were Sa'ad bin Laden and the
9 man who would soon lead Al-Qaeda in Iraq, Abu Mussab Zarqawi.
10 This is particularly important because these are very, very
11 important people in Al-Qaeda. And they were allowed to come
12 into Iran to escape the Americans, and they were allowed to
13 stay there. In fact, Sa'ad Bin Laden had directed Al-Qaeda
14 terrorist activities thereafter for many years.

15 Two of the witnesses in this case, the sealed
16 witnesses, Z and Y, both were involved in that evacuation and
17 provision of safe haven. Witness Z testifies -- well, excuse
18 me. Witness Z testifies to assistance to Sa'ad bin Laden prior
19 to 9/11 -- excuse me, I misspoke -- at S7, 84 to 90, pages 84
20 to 90. Witness Y testifies in detail, because he was very much
21 involved in the support for the escaping Al-Qaeda operatives at
22 S6, Exhibit S6, pages 29 to 31, 35 to 45, or excuse me, 35 to
23 52.

24 This does not all come from their testimony, though.
25 The United States Treasury designations and State Department

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1 words show very clearly that the United States knows beyond any
2 doubt that Iran helped the Al-Qaeda cadres escape into Iran and
3 that they were provided safe haven thereafter. This is an
4 established conclusion of the United States government.

5 Indeed, the treasury designations report that Ayman al Zawahiri
6 himself made particularized arrangements for his own family for
7 safe haven in Iran after 9/11 through his son-in-law, who was
8 an Al-Qaeda operative, and that Sa'ad Bin Laden facilitated the
9 travel of Osama bin Laden by Bin Laden's own family members
10 from Afghanistan to Iran.

11 Now, finally, there have been -- as I mentioned, there
12 has been many instances of those Al-Qaeda operatives in Iran
13 living in safe haven, actually conducting terrorist activities
14 throughout the Middle East and directing them from their refuge
15 in Iran.

16 Most recently, your Honor, in July of this year, the
17 Obama administration and the US treasury department took
18 actions indicating that even to this day Iran has been
19 materially assisting Al-Qaeda by facilitating the transport of
20 money and terrorist recruits across Iran's territory. The
21 government, our government, concluded that there is an
22 agreement between Al-Qaeda and the Iranian government
23 demonstrating that Iran is a critical transit point for funding
24 of Al-Qaeda activities currently going on in Afghanistan and
25 Pakistan. It's the core pipeline that they move money and

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1 operatives across the Middle East to South Asia. And the Obama
2 administration was very clear in announcing this, that senior
3 Iranian officials know all about these money transfers and that
4 they allow the movement of these Al-Qaeda foot soldiers through
5 Iran's territory.

6 That concludes my presentation of the evidence. Thank
7 you, your Honor, for giving me the time to do that and being so
8 attentive. I know it took quite a while, but thank you.

9 And I want to turn it back over to Thomas Mellon for
10 additional presentation.

11 THE COURT: Thank you.

12 Mr. Mellon?

13 MR. MELLON: Thank you.

14 Your Honor, I'd just like to add a footnote to what
15 Mr. Fleming said with regard to Mesbahi. In the 9/11
16 Commission report, which was released in July of 2004, the
17 testimony of Mesbahi may be put in better context because the
18 9/11 report chapter 8 is entitled, The System was Blinking Red.

19 On page 256 it states that the CIA notified all the
20 stations in the summer of 2001 about intelligence suggesting a
21 possible Al-Qaeda attack on US targets over the next few days.
22 The point there being, your Honor, chapter 8 talks just not
23 about Mesbahi, which it doesn't mention at all, but apparently
24 there was an onslaught of information, frequent but fragmentary
25 reports from around the world about a possible attack on

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1 America.

2 The context I'm trying to place Mr. Mesbahi in is he's
3 not a gadfly or one in a million or one in ten million.
4 Mr. Mesbahi was very well placed, very knowledgeable, but he was
5 one of, apparently, many, many, many Al-Qaeda leaks in the
6 world, from Malaysia and other places around the world,
7 suggesting something was happening. Something was big. It's
8 going to happen in the summer. And the details were never as
9 specific, of course, as we would like, or we would have
10 prevented it. But, again, Mesbahi is one of many individuals,
11 according to the 9/11 Commission report, that had some
12 fragmentary knowledge of what it is that was going to happen.

13 Your Honor, it is my responsibility on behalf of the
14 Havlish plaintiffs to discuss the experts. I believe I can do
15 so in 30 minutes. I will do my best by now identifying them
16 and stating that which is the most important part of some of
17 their very lengthy depositions.

18 By way of introduction, the plaintiff's experts are
19 Dietrich Snell, a 9/11 Commission staff member, more to come;
20 Dr. Daniel L. Byman, also of the 9/11 Commission, more to come;
21 Ms. Janice Kephart, also of the 9/11 Commission; Dr. Patrick
22 Clawson, who is no stranger to our federal courts here in the
23 Southern District of New York or in Washington; Dr. Ronen
24 Bergman, an Israeli national security analyst. We also have
25 the testimony of two CIA street operatives who became, in fact,

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1 supervisors, Clare Lopez and Dr. Bruce Tefft. We have the
2 testimony and the affidavit of Mr. Ken Timmerman, who's been
3 identified in the courtroom already. Then we have Interpol in
4 charge of the United States, Mr. Edgar Adamson. And then
5 finally, a French jurist by the name of Jean-Louis Bruguiere,
6 who has sat on more terrorism trials in Europe than any other,
7 for example -- Judge, I believe it's more than all the French
8 judges combined, a man very knowledgable about terrorism for
9 the last 30 years.

10 Your Honor, I'd like to begin, then, with the
11 affidavit, which can be found at the lower right-hand corner of
12 your PowerPoint, 159 to 160, specifies these proposed findings
13 of fact, findings of fact that, indeed, are more elaborate as
14 to the affidavit.

15 But first what I'd like to advise the Court is that
16 Dietrich Snell was the team leader. He was in charge for the
17 United States of America for the 9/11 Commission. He was the
18 team leader of the plot investigation. I doubt that there's
19 anyone more knowledgable in the country than Dietrich Snell as
20 to the entire conspiracy.

21 In his affidavit, your Honor, he states that he looked
22 at classified and unclassified information in the performance
23 of his responsibility to understand the entire plot. And not
24 only was he in charge of it, but he drafted and edited the 9/11
25 Commission report on the entire conspiracy, with special

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emphasis, on page 240 and 241, Iran, Hezbollah and Al-Qaeda.

And what he tells us is that the FBI had its largest investigation in its history. And it was called the PENTTBOM investigation: "pen" as in Pentagon; "TT", Twin Towers; "bom", bombing. He worked very closely with the FBI in the entirety of the 9/11 Commission report.

And here is what they determined: The FBI view was that the hijackers transited Iran to and from Pakistan and to and from Afghanistan. And this is most important, your Honor: Just not vacation travel; the FBI determined the hijackers were not there as students or tourists; they were there in furtherance of the conspiracy, according to our FBI. And this explains the absence of travel documents.

When you have the largest collection of FBI agents on one case in the world, we all wonder why documents are absent. Well, they're absent, as we heard earlier, and we'll hear a little bit later, it was by design. The documents were not absent by lack of intent. They were intended not to be utilized.

However, Dietrich Snell is a very experienced, highly regarded prosecutor. And he didn't want to write that without further corroboration. So he went to the FBI and the CIA and said, I have to have some questions answered. I want to know what Ramzi Binalshibh in Guantanamo and I want to know what Khalid Sheikh Mohammed in Guantanamo say about this. We're not

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1 going to show our cards. We're just going to ask them some
2 questions. And lo and behold, the answers came back from
3 Binalshibh and Mohammed that Iran was corroborating travel
4 facilitation into and out of and through Iran. And again,
5 these points are found in our proposed findings of fact 160,
6 161, but of course in those findings of fact we cite
7 extensively the other information in the brief in its entirety.

8 Next slide please.

9 This, your Honor, we believe carries the day. As the
10 Court may know, there have been other cases against Iran. In
11 fact, there's been 45 cases against Iran in this country in the
12 last 15 years for terrorism, 45 in federal courts, and some of
13 them just have one expert or some have two. We have ten, and
14 we did that because of the seriousness of the charges.

15 But this statement from the person who wrote the book
16 on the 9/11 conspiracy, I believe, establishes our legal
17 burden. And here are his words, your Honor: There is clear
18 and convincing evidence pointing to the involvement on the part
19 of Hezbollah and Iran in the 9/11 attack, especially as it
20 pertains to travel facilitation and safe haven.

21 (Continued on next page)
22
23
24
25

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1 MR. MELLON: Your Honor, I believe we have already
2 moved the affidavit in its entirety for Dietrich Snell into
3 evidence, but to the extent it hasn't been, I want to do it
4 again for insurance purposes.

5 THE COURT: Sure.

6 MR. MELLON: The next person, your Honor, we believe
7 is equally compelling in this is Dr. Daniel L. Byman.
8 Dr. Byman was again a member of the 9/11 Commission. Who
9 better to think about these important issues and the
10 interrelationships between Iran, al-Qaeda and Hezbollah.

11 Dr. Byman is a professor at Georgetown University
12 specializing in terrorism. His résumé is so impressive, your
13 Honor, which is why I put it here in terms of his credibility.

14 He's a member of the Brookings Institute. He's a
15 regular consultant to the United States Government on terrorism
16 and national security matters. He spent years in the CIA
17 before his Georgetown days. He was the research director of
18 the RAM Center for the Middle East public policy. This is
19 interesting, your Honor, respectfully, he was on both the House
20 and Senate Intelligence Committees investigation into the
21 attack, which was called "The 9/11 Inquiry" and then, of
22 course, "The 9/11 Commission." Dr. Byman has seen it all. In
23 fact, his specialty is al Qaeda. Next one, please.

24 Your Honor, here is what Dr. Byman says: He too says
25 there is clear and convincing evidence that Iran has provided

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1 material support for al Qaeda. The support included assistance
2 with travel, unlimited safe haven and training, at the very
3 least. Next, please.

4 Dr. Byman explained to us that the main reason for the
5 cooperation between Iran and al Qaeda is that both see -- Iran
6 and al Qaeda -- both see the United States as its enemy. Both
7 believe the United States is an imperialistic power bent on
8 subjugating Muslims and want to weaken the United States'
9 influence.

10 Here is a very powerful statement: Dr. Byman says,
11 "The use of violence and the threat of force have been part of
12 Iran's foreign policy," leaving no doubt.

13 He also mentions that al Qaeda leader Ayman
14 al-Zawahiri has admitted publicly in Middle Eastern newspapers
15 that before 9/11, Iran and al Qaeda cooperated together. As
16 part of their cooperation, Iran used Hezbollah as a facilitator
17 and, of course, the number one facilitator for terrorism in the
18 world is Imad Mughniyah.

19 In fact, Dr. Byman writes that the relationship
20 between Hezbollah and Iran has one of the closest relationships
21 in history between a terrorist group and its sponsors. He
22 said, however, there's another reason for this Iranian-al Qaeda
23 connection: That reason is that Hezbollah offers Iran
24 deniability, deniability. Next, please.

25 Dr. Byman notes that keeping passports clean was

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1 vital -- and that is his word, your Honor -- vital to reducing
2 the risk of discovery and arrest.

3 One of al Qaeda's key military commanders, Seif
4 al-Adl, acknowledged transit through Iran has been publicly
5 stated again in Middle Eastern newspapers. The source of this
6 information again goes back to the actual affidavit, which in
7 turn actually notes specific publications and the source.

8 Dr. Byman notes that travel assistance is invaluable,
9 his words, and here is why: With travel assistance, al Qaeda
10 is able to make recruits and acquire easier training, and, most
11 importantly, al Qaeda is enabled to have better communication
12 and coordination among its ranks.

13 So, Dr. Byman is a 9/11 expert who recognizes that
14 travel assistance is indispensable and indeed invaluable.

15 Al Qaeda received training in explosives in Iran
16 leaving little question open on that point. Next one, please.

17 Iran's standard modus operandi is outsourcing to its
18 close ally Hezbollah. I believe Mr. Fleming has certainly
19 touched upon that and made that clear. The training that Iran
20 has provided Hezbollah -- think Imad Mughniyah -- involves
21 explosives on methods pertaining to the collection of
22 intelligence and operational security. It's just not a matter
23 of travel facilitation and it's just not a matter of safe
24 haven.

25 He concludes that there is strong support for the

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1 claim that Iran has provided important material support for
2 al Qaeda, and that support comes from a range of sources;
3 again, including U.S. Government documents and even statements
4 by al Qaeda themselves.

5 Your Honor, our third expert -- and I will try to
6 speed this up, but I think this is another terribly important
7 expert because she worked for the 9/11 Commission. This is our
8 third person who worked for the 9/11 Commission.

9 Janice Kephart was their border control expert. She
10 was the person who was responsible for understanding the
11 ingress and egress of the hijackers. Previously, she was
12 counsel to the U.S. Senate Judiciary Committee. She served on
13 the 9/11 Commission.

14 Here is a fact that most of the American public
15 doesn't even know exists. There is a companion book -- it's
16 pretty thick -- to the 9/11 Commission, and it's called "9/11
17 and Terrorist Travel." It's a staff report of the National
18 Commission on Terrorist Attacks. It's a companion to the 9/11
19 Report and it's all about travel, in and out, and as we will
20 see, there are some really revealing facts.

21 First of all, Janice Kephart teaches us, instructs us
22 that the 9/11 travel was an operation. It was like a military
23 operation. It was similar to the coordination of going to the
24 four planes, having them take off at the same time, having
25 their targets identified and executing it.

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1 Janice Kephart's affidavit says: The travel
2 operation -- the planning, the execution, the timing, the
3 manner and means -- was just as important as driving the
4 airplanes, and that it takes an enormous amount of work.

5 In fact, she tells us that in her job she interviewed
6 many folks, including thousands of travel documents, but,
7 please, your Honor, listen to this one, rather unbelievably,
8 she actually has six of the hijacker passports. It's hard to
9 believe that of the inferno that was 9/11 that six passports
10 could survive, but among the thousands of documents that she
11 examined in writing her companion terrorist travel book, she
12 found -- not she, but our country found -- six of the
13 hijackers' actual passports. Go back for a second, please.

14 She interviewed in detail each one of the 26 U.S.
15 border inspectors who were involved in the ingress and egress
16 of the travel of the hijackers.

17 Her conclusion is as an expert: The facilitation of
18 terrorist travel is crucial, crucial material support to
19 terrorist operations.

20 And second conclusion: Iran's facilitation of
21 al Qaeda operative travel, including at least eight of the
22 hijackers, amounted to essential material support, indeed,
23 direct support, your Honor, direct support, that removes all
24 doubt, direct support that further enabled al Qaeda to
25 perpetuate the 9/11 attack successfully. Next slide, please.

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1 Your Honor, slide 58, the 9/11 terrorists had engaged
2 in a specific terrorist travel operation, which I discussed
3 before, and, again, it was not only the seizure of the airlines
4 but the execution. For terrorists' travel, success is often
5 dependent on preparation. In fact, look what the 9/11
6 Commission said -- not just Janice Kephart -- the 9/11
7 Commission said, "For terrorists, travel documents are as
8 important as weapons." Again, that's not just Janice; that's
9 the 9/11 Commission. Next one, please.

10 Janice's affidavit notes that 26 of the al Qaeda
11 terrorist operatives were whittled down to 19. In her
12 investigation, along with other members of the border team, 23
13 visas were applied for resulting in 22 visas being obtained for
14 34 separate entries into and out of the United States. I
15 shouldn't say out of. I should say into. 34 separate entries
16 into the United States. Over a period of 21 months. In other
17 words, the hijackers didn't have much of a problem getting into
18 our country.

19 Now, why is that important? Well, Ms. Kephart tells
20 us why. They must travel clandestinely to meet, to train, to
21 plan, to case targets and to gain access for the actual attack
22 itself. To terrorists, international travel presents a great
23 danger because of passing through regulated channels.
24 Although, again, as noted, they were successful many, many,
25 many times before 9/11.

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1 This is Janice's conclusion on PowerPoint 60. Again,
2 the words are used: "There is clear and convincing evidence
3 that Iran and Hezbollah provided material support to al Qaeda
4 by actively facilitating the travel of eight to ten of the 9/11
5 hijackers to Iran or Beirut" -- importantly -- "immediately
6 after their acquisition of their U.S. visas." They got to
7 Saudi Arabia, they got their visas, and back they went, and
8 then into Afghanistan, "and that these U.S. visas" -- this we
9 believe is very important, your Honor -- were specifically
10 acquired, "garnered specifically for the purpose of terrorist
11 travel into the United States to carry out the 9/11 attacks."

12 So we have, once again, Imad Mughniyah rendering
13 assistance to these hijackers, these young men, Imad Mughniyah
14 takes them from Iran to Saudi Arabia, when they get clean visas
15 and their clean passports, back to Iran, then back to
16 Afghanistan. Next slide, please.

17 Your Honor, Dr. Patrick Clawson, certainly one of the
18 foremost experts on Iranian terrorism. He's a constant
19 consultant to the CIA, the DIA, the National Security Agency,
20 the Defense Department. He has lectured worldwide on the
21 subject matter of Iran.

22 However, perhaps of interest to this Court, Patrick
23 Clawson has been an expert witness 25 times in our federal
24 courts on the subject of Iran and terrorism, many times in
25 Washington, but I believe a few times here in New York.

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1 Patrick Clawson chose to draft his affidavit in a
2 fashion that he thought would be most compelling to the Court.
3 He believed the fact that the U.S. State Department annual
4 reports are the most telling documents.

5 Here is why: Those reports are not issued unless
6 every facet of the U.S. Government edits and agrees to the
7 exact wording and content. So it's just not the State
8 Department putting together a report for one or two bureaucrats
9 to keep themselves busy; this is heavily vetted by our whole
10 intelligence community.

11 Dr. Clawson said, Iran is consistently from the early
12 Eighties, '81, cited as the primary state sponsor of terrorism
13 throughout the world. There's no second place. It's all about
14 Iran. That's been true now for all those many years.

15 He states that the U.S. Government sources have issued
16 repeated and detailed descriptions of Iranian material support
17 to al Qaeda before, during, and after 9/11.

18 Now, we know that the State Department is not the only
19 one that issues reports. The U.S. Treasury often issues
20 reports involving terrorism. U.S. Justice Department. There
21 are many departments of our government that issue reports. His
22 statement is that U.S. Government sources have issued repeated
23 and detailed descriptions of Iranian material support.

24 He states, "Noting the evidence is clear and
25 convincing, there is simply no ambiguity or unclarity in U.S.

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1 government statements about this matter.

2 Of recent vintage, Dr. Patrick Clawson thought it was
3 important for this Court to know that Sa'ad bin Laden went
4 directly to Iran after the 9/11 attacks, and as we'll see
5 coming up in a moment, managed al Qaeda from inside Iran. Next
6 please.

7 We are at slide 64, I believe. In fact, Dr. Clawson
8 really became emphatic. I was going to say strident, but that
9 would be unkind. He became emphatic when he said, "Few, if
10 any, noted terrorism experts would dispute that Iran provides
11 material support to al Qaeda within the meaning of 18 U.S.C.,
12 which is the definition of material support I read in the very
13 beginning today.

14 Iran supported al Qaeda through its instrumentalities,
15 the Revolutionary Guard and MOIS, is consistent with its
16 foreign policy of supporting terrorism against the United
17 States. Yes, it's their foreign policy to support terrorism
18 against us. Next.

19 That concludes Dr. Clawson, and we are better than
20 halfway done, your Honor.

21 Your Honor, Claire M. Lopez and Dr. Bruce Tefft are
22 very interesting experts because they earned their spurs on the
23 streets around the world including the Middle East, Europe,
24 Russia, South America, on-the-street CIA people. Then they
25 graduated in their senior year, so to speak, as supervisors

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1 running the other agents around the world. Today they are
2 privately retained by various federal contractors, and, of
3 course, that would be in the area of intelligence and security,
4 and their actual bio in the affidavit is quite extensive;
5 quite, quite extensive.

6 But I thought of note to this Court, Dr. Tefft has
7 been certified as an expert in our courts, in the United States
8 District Courts, in Washington in eight different cases
9 involving Iran.

10 Now, your Honor, you may recognize this from my
11 introductory comment about material support. In my
12 introductory comment, I mentioned that all of these things, and
13 to a significant degree, have been contributed by Iran via
14 Hezbollah to al Qaeda.

15 Dr. Tefft and Claire Lopez write: Their material
16 support involves planning, recruitment, training, financial
17 services, expert advice and assistance. Iran provided al Qaeda
18 lodging and safe houses. Iran and Hezbollah provided false
19 documents and identification. Iran and Hezbollah provided
20 communication equipment, facilities, weapons, lethal
21 substances, explosives. And, finally, Iran and al Qaeda, or, I
22 should say, Iran and Hezbollah provided al Qaeda with personnel
23 and travel facilitation.

24 On slide 67, We have seen this by way of Mr. Fleming's
25 prior presentation. I hope it is now clear that 8 to 14 muscle

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1 hijackers acquired their needed Saudi passports and their
2 needed U.S. visas thus ensuring two things: If you have a
3 clean Saudi passport and a clean U.S. visa, that guarantees
4 your continued training in Afghanistan but access to the United
5 States.

6 Slide 68, your Honor. I believe Mr. Fleming made a
7 very clear statement, but I feel compelled to do it again. The
8 Iranian and al Qaeda joint terror attacks against the United
9 States on September 11, 2001 were preceded by the Khobar Towers
10 in Saudi Arabia, by the two embassy bombings in Africa in 1998,
11 and the suicide bombing on the Destroyer Cole in 2000.

12 I respectfully submit, I respectfully submit that the
13 history demonstrates that something else was going to happen in
14 2000, or 2001 or 2002. This conspiratorial relationship had
15 not ended but had just started, and to our great sadness, the
16 next thing was September 11.

17 Slide 69, your Honor. "We are convinced that the
18 overwhelming evidence assembled in our affidavit, which is
19 several hundred paragraphs, leaves no doubt that al Qaeda and
20 the official Iranian regime at the highest levels have been
21 acting in concert to plot and execute attacks against the
22 United States since the early 1990s."

23 Slide 70, your Honor. They concluded upon that which
24 I commented upon a moment ago; that is, al Qaeda and Iran, and
25 every time we see Iran, we think Hezbollah. Hezbollah is Iran;

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1 Iran is Hezbollah. Alliance was responsible for all of the
2 most significant terrorist attacks against the U.S. national
3 interests from 1990s up to and including September 11.

4 Your Honor, these are brand new slides. We just got
5 permission from Mr. Mesbahi to mention his name and to tell the
6 Court what he knew. So these slides are less than a day old.
7 These slides suggest that Ayatollah Khomeini initiated
8 contingency plans in the mid 1980s for an operation against the
9 United States in the American cities called Shaitan dar Atash.

10 Here is why that is important. In their affidavits,
11 in their full affidavits, you will see that Lopez and Tefft
12 were mandated by all the Havlish lawyers to take Mesbahi's full
13 testimony and to break it down. Frankly, your Honor, we don't
14 know whether to believe him or not. What do we know. So, we
15 gave him the testimony and the videos. They took six months to
16 study the videos and the testimony, and in their full
17 affidavit -- and this is a shorthand of it -- they say, from
18 our point of view as CIA, it's all credible. It's real. If we
19 were in the CIA today and he came and talked to us, we would
20 sit him down and work with him. We, of course, know the
21 Germans did. The important thing is Mesbahi's credibility is
22 bound to be tagged for here are two professionals who have
23 studied it over six months, and they say he's credible with
24 regard to Shaitan dar Atash, and which relates to the
25 operational contingency plans in the mid 90s.

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1 They also took a look in great detail about the coded
2 messages coming in newspapers and other ways from Iran to him
3 in Europe. Of course we said to Lopez and Tefft, how do we
4 know he's telling the truth? They studied the coded messages.
5 They analyzed the coded messages. And here is what they said.
6 They studied his communication sources inside of Iran, the
7 encoded and encrypted messages, and the manner and method of
8 such communication is credible. Mesbahi's testimony that he
9 received from high-level sources in Tehran advance notice of a
10 major attack is credible.

11 This is the conclusion, your Honor. It is their
12 expert opinion to a reasonable degree of professional certainty
13 that the Iranian regime's use of terror and specifically its
14 material support of al Qaeda and terrorist attacks, including
15 9/11, is beyond question. And that is slide 73.

16 Your Honor, in the interest of brevity, I believe I
17 will make this my last one. This will be our last one, your
18 Honor. We are going to cut a couple of the others short.

19 Your Honor, Dr. Ronen Bergman is an Israel expert on
20 international intelligence, especially the Mossad and
21 terrorism. I think it's generally considered well-known that
22 Mossad is a very excellent intelligence agency, and, very
23 frankly, we went and tried to learn as much as we could in
24 Israel, and several of the men and women in this room made
25 several trips to Israel with that purpose in mind.

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1 On the record the Mossad could not speak to us, on the
2 record the Mossad could not give us anything, but on the record
3 Mossad helped us with Dr. Ronen Bergman, and you will see that.

4 Again, he's an expert on international intelligence
5 and on Mossad and terrorism. He conducted extensive interviews
6 with many former -- and I found this powerful your Honor --
7 Iranian intelligence and military personnel. So he's talking
8 to them directly. Again, his affidavit goes into great detail
9 about that. He is considered one of the principal experts on
10 the Israeli intelligence community's assessment or analysis of
11 Iran. And this we found powerful, your Honor: He has reviewed
12 the intelligence material from not only Israel, but the United
13 States, France, United Kingdom, Egypt, Jordan and Germany.

14 This is a new slide, your Honor. Dr. Bergman has
15 researched and published material about Witness X, Mr. Mesbahi.
16 Here is what he tells us in his affidavit. Mesbahi is known to
17 be an excellent intelligence operative. He tells us, which we
18 know, the Germans recruited Mesbahi as a source of information
19 and evidence. An important asset in the investigation of many
20 assassinations and acts of terror by the Iranian regime and its
21 proxies, Hezbollah, in several countries.

22 Mesbahi's testimony has been received with high
23 reliability by courts and law enforcement and intelligence
24 agencies worldwide. So, once again, we really don't have to
25 take Mesbahi's word for it. We can rely upon Lopez. We can

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1 rely upon Tefft. And, more important, we can rely upon his
2 access to information involving Mesbahi; that is, Dr. Bergman.

3 Slide 76. He notes from his intelligence sources that
4 Iran was involved in 133 terrorist operations in just nine
5 years. That's between '87 and '95. He tells us that many
6 other acts of terrorism involving hundreds of fatalities
7 preceded and followed this eight-year period. Of course, that
8 is not including the 2,977 deaths we had on September 11.

9 Hezbollah, of course, was an Iranian organization from
10 its inception, and of course we now know from Mr. Fleming's
11 presentation that Mughniyah was its leader.

12 Israeli and American intelligence sources believe that
13 Hezbollah's Mughniyah conceived, designed, planned, commanded
14 and carried out terrorist operations involving hundreds of
15 deaths, more than any other single figure in the world before
16 his own assassination in Damascus, Syria in February '08.
17 Mughniyah and his top lieutenants all trained in Iran.

18 Slide 78, your Honor. This is, I believe, telling and
19 its a very lengthy affidavit. We wanted to highlight that
20 Dr. Bergman had access to two top-secret highly classified
21 Israeli documents. I asked him is it OK for us to say that?
22 Are we allowed to say that? He said, yes, you can put it in.
23 And he did, as you'll see, in his affidavit. That's finding of
24 fact 210. He had access to two top-secret highly classified
25 Israeli documents which disclosed: Iran is aided by

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1 Hezbollah's operational infrastructure abroad, through Imad
2 Mughniyah for the purpose of attacks.

3 Hezbollah terrorists train in Iran, which now we know,
4 and Iran usually refrains from carrying out attacks directly,
5 and its involvement usually follows an indirect course, Imad
6 Mughniyah.

7 I am going to go a little faster because I think
8 Mr. Fleming has talked about Khartoum. One of the most amazing
9 photographs of all time would have been Imad Mughniyah meeting
10 Osama bin Laden in Khartoum 1993. I presume that photograph
11 doesn't exist or it certainly hasn't surfaced yet. It's at
12 that meeting where the tactic of suicide attacks became the
13 topic of conversation between Mughniyah and bin Laden. Of
14 course, Mughniyah had been by '93 and continued to remain a
15 major connection point between Iran and al Qaeda.

16 By this time we know, your Honor, that much of
17 al Qaeda's training was carried out in camps in Iran by MOIS
18 and IRGC.

19 We are on slide 80, finding of fact 213 to 215.
20 Mr. Fleming I believe already mentioned that in 1996 when bin
21 Laden and al Qaeda were made to leave Sudan, it was the Iranian
22 intelligence services that assisted them in moving their
23 operation and members, assisted them.

24 Iran and Lebanese Hezbollah trainers traveled between
25 Iran and Afghanistan transferring to al Qaeda fighters such

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1 material as blueprints, drawings of bombs, manuals for wireless
2 equipment, instruction booklets and information regarding the
3 avoidance of unmanned aircraft.

4 After al Zawahiri's return to Afghanistan with Osama
5 bin Laden, Iran authorities helped him on many occasions to
6 pass weaponry and reinforcements to al Qaeda across the border
7 from Iran to Afghanistan.

8 Your Honor, we are on slide 82, and I think I am down
9 to my last three or thereabouts. Last one.

10 Your Honor, the Israeli and American intelligence
11 agents have examined the document Mr. Fleming made reference to
12 dated May 14, 2001, and they found it to be authentic. It
13 reveals both high-level links between Iran's supreme leader and
14 the al Qaeda leadership involving knowledge and support of a
15 major upcoming event. Of course, the major upcoming event was
16 September 11.

17 That document states finding of fact 218, that it was
18 the Iranian government's goal to damage America and Israel's
19 economic systems discrediting their institutions.

20 In conclusion, and finally, your Honor, thank you for
21 your patience, Dr. Ronen Bergman writes: The Islamic Republic
22 of Iran was, and is, a benefactor of, and provided material
23 aid, resources and support to Osama bin Laden and al Qaeda both
24 before and after the attacks of September 11 against the United
25 States.

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1 Is there anything you'd like to say, Tim? Your Honor
2 if Mr. Fleming may --

3 THE COURT: Yes, Mr. Fleming.

4 MR. FLEMING: Your Honor, thank you. During my
5 presentation, there was one point that I -- a set of cites that
6 I wanted to give to the sealed documents regarding the issue of
7 the fact of Iran's preknowledge of 9/11. Therefore, it was
8 obviously very important testimony which occurs in the Exhibit
9 S7, testimony of witness Z, pages 43 to 52, and 55 all the way
10 to 90, page 103. And then exhibits 7, 8, 9 and 10 addressing
11 that subject.

12 Then the only other thing I wanted to point out, your
13 Honor, also was that with respect to all three of the
14 witnesses, I would also like to point out that the sealed
15 affidavit of Kenneth Timmerman addresses many significant
16 aspects of the investigation and how we came to be able to
17 obtain the testimony of the three defective witnesses. Since
18 that's sealed, I wanted to point it out in its entirety to the
19 Court that Mr. Timmerman was there for the entire investigation
20 and for all testimony, so it is a good affidavit on that
21 subject.

22 MR. MELLON: If I may have one more minute, your
23 Honor. I failed to move in all the affidavits of all the
24 experts we submitted on May 19 and respectfully request your
25 Honor to accept those. Likewise, we had a supplemental

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1 affidavit of Patrick Clawson filed in August involving
2 instrumentalities and agencies.

3 Finally, your Honor, we have asked Mr. Stephen Corr to
4 address the Court for just a minute involving some housekeeping
5 administrative and ministerial matters.

6 Mr. Corr?

7 MR. CORR: Your Honor, the third amended complaint
8 which is the current complaint in this matter raises causes of
9 action under both the Foreign Sovereign Immunities Act and the
10 Alien Tort Claims Act. This morning we filed the declaration
11 of Melina Goldfarb who is one of our attorneys here. In the
12 declaration, she states that she and her team have determined
13 that each and every one of the plaintiffs in the
14 above-captioned lawsuit is either a United States citizen or is
15 asserting a claim that derives from the death of a United
16 States citizen in the 9/11 terrorist attacks.

17 When we started this morning, your Honor asked about
18 the findings of fact and conclusions of law. Based on the
19 findings and the discussions with all of the clients and their
20 citizenship, we are going to provide you with a revised
21 findings of fact and conclusions of law that will exclude the
22 Alien Tort Claims Act because everybody is a U.S. citizen.

23 THE COURT: There was specific in there for
24 non-citizens is my recollection.

25 MR. CORR: Your Honor, if I would, I would hand up the

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1 declaration here and move that into evidence as well.

2 THE COURT: That will be received.

3 MR. CORR: Your Honor asked for an electronic copy.
4 We will get that to you tomorrow.

5 The last point I think is that there are actually two
6 motions pending before your Honor. There is a motion for
7 judgment by default against the sovereign defendants; that's
8 what we've been discussing here today. Of course, you have
9 heard about the affidavits and you've read that they talk about
10 clear and convincing evidence, but we know from 1605(a) of the
11 Foreign Sovereign Immunities Act that the burden is evidence
12 satisfactory to the Court. I think you can see from the pile
13 of evidence that has been moved before you that we far exceed
14 that very limited burden under the Foreign Sovereign Immunities
15 Act.

16 The second motion is a motion for judgment by default
17 against the non-sovereign defendants. That, of course, did not
18 require a hearing. That is pending before your Honor as well,
19 and we want to bring that to your attention.

20 Your Honor, ten years ago, Fiona Havlish started this
21 case. Today she and her co-plaintiffs would respectfully
22 request that you enter judgment against both the sovereign
23 defendants and the non-sovereign defendants, judgment in their
24 favor against all of those defendants, and then provide us with
25 an opportunity for a hearing either with yourself or with Judge

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1 Maas to begin the process -- to come up and formulate a process
2 for establishing the damages for each of the individual
3 plaintiffs in this case.

4 MR. MELLON: Your Honor, if I may, are there any other
5 Havlish lawyers that wish to address the Court?

6 THE COURT: Let me make this --

7 MR. FLEMING: Your Honor, I'm sorry. I just think
8 that -- I'm glad Mr. Mellon mentioned Dr. Clawson's extra
9 affidavit because I didn't ask to move into admission Exhibits
10 38 through 41.

11 THE COURT: They will be admitted.

12 Let me make this determination at this point. There
13 has been an extensive record submitted to the Court. That
14 extensive record which includes sealed and unsealed submissions
15 including fact and expert testimony by affidavit as outlined
16 here at this hearing establishes plaintiffs' claims by credible
17 evidence satisfactory to this Court pursuant to 28 U.S.C.
18 Section 1608(e). I accept as true the plaintiffs'
19 uncontroverted evidence.

20 This Court will issue an order consistent with the
21 plaintiffs' proposed findings of fact and conclusions of law.
22 The evidence in this case supports a finding that consistent
23 with its designation as a state sponsor of terrorism, Iran and
24 the sovereign defendants were indeed responsible for providing
25 material aid and support for terrorist acts against the United

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1 States, its citizens and interests and others including the
2 terrorist attacks on 9/11, and it provided such material aid
3 and support before, during and after 9/11. This Court will
4 issue default judgment against all defendants based upon the
5 record that exists before this Court.

6 What I am going to ask you to do is several things:

7 I'd like to see three separate documents. One with
8 regard to a proposed judgment for the non-sovereign defendants.
9 If you will work with the clerk's office in terms of form and
10 procedure as to what they would require as sufficient, it would
11 facilitate the filing of the judgment, but run it by the
12 clerk's office first in terms of whether that is satisfactory
13 if my signature is upon it for filing.

14 I would ask you to give me the order with findings of
15 facts and conclusions of law as you propose it as amended on
16 disc and in hard copy, if you can change it on the hard copy,
17 and submit that to me, separate out the judgment from the order
18 which has the findings of fact and conclusions of law.

19 Propose to me again a separate judgment with regard to
20 the sovereign defendants approved by the clerk's office for
21 filing.

22 So when I receive those from you, I will execute those
23 or modify them as needed and file them immediately.

24 There was some reference earlier to possibly
25 supplementing some of the presentation or references to the

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1 evidence given the unsealing by letter. If you wish to do
2 that, just submit that by letter with a request in the letter
3 to have it filed, and I will order that filed as part of the
4 record if you think there is something further that you want to
5 specifically reference that was not referenced today and that
6 is warranted in light of the motion for unsealing.

7 While we were here, I reviewed the application to
8 unseal certain documents. I have granted that application.
9 You should have a copy of that order that was proposed to me.
10 I signed that general order, and that should already be filed
11 on ECF. It was scanned during the break after I signed it. So
12 that order is issued.

13 As I indicated, I think following up on that order
14 rather than trying to get involved with the clerk's office as
15 to what should be unsealed and what should remain sealed, I am
16 going to leave it up to you to file an unsealed redacted copy
17 of the material in the form that you wish to have it unsealed
18 consistent with the order.

19 The clerk's office should accept those redacted
20 unsealed documents for filing. If they indicate to you that
21 they need a subsequent further order to accept those further
22 documents for filing -- they should not, but if they do --
23 indicate that to me and then send to me a proposed order which
24 I will sign right away.

25 At this point, unless it warrants a different way to

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1 proceed, I think I am going to go ahead and make a referral
2 right away to Magistrate Judge Maas. He has been doing an
3 excellent job in moving things along in the last few months.
4 We've been in constant communication. I think that unless he
5 tells me or you tell me it is more complicated than what
6 further burdens I should put upon him, I am going to make a
7 referral to Magistrate Judge Maas for request on damages so you
8 can immediately submit that to Magistrate Judge Maas, he can
9 perform the inquest, and we can move forward with a further
10 supplement to the judgment of default itself laying out and
11 delineating what the damages are that flow from that.

12 I think that is the way that we should proceed. We
13 will await in the next few days or whenever you can get to me
14 those items. As soon as I receive those items, I will execute
15 them and file them as appropriate.

16 I will immediately today tell Magistrate Judge Maas
17 that he should anticipate hearing from the parties with regard
18 to an inquest on damages and what you can accomplish through
19 that.

20 MR. CORR: Your Honor, if I may, I do have a revised
21 findings of fact and conclusions of law. We took out the word
22 proposed. I did separate out an order of judgment that I know
23 your Honor just mentioned that we should talk to the clerk's
24 office about. I can tell you that we took the order of
25 judgment, I believe it's word for word, from the Owens judgment

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1 that was entered in D.C. Essentially it just says that default
2 judgment is granted and final judgment on liability is entered
3 in favor of the plaintiffs against the defendants. It is
4 ordered that the parties shall appear for a status conference
5 with a special master. That may be something that you want to
6 take out. It does leave room for a date and time for a
7 hearing.

8 THE COURT: I will discuss that with Magistrate Judge
9 Maas.

10 MR. CORR: If I could hand this up and I could speak
11 with your clerk.

12 THE COURT: Yes. I still need to look at it because
13 you, for example, did you take out the reference to non U.S.
14 citizens?

15 MR. CORR: Yes, your Honor, we took out everything
16 that referenced the Alien Tort Claims Act. So all of those
17 things that we wanted to remove once we confirmed that
18 everybody was a U.S. citizen, we edited that.

19 THE COURT: So that's already made as suggested here.

20 MR. CORR: Right. That is what will be coming to you
21 electronically.

22 THE COURT: All right. Then just give me the disk. I
23 think that should be sufficient. I am going to need some
24 signature lines on the orders and some line changes on the
25 order as opposed to the judgment. Also, you are going to give

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1 me a similar judgment on the non-sovereign.

2 MR. CORR: Your Honor, I have the non-sovereign one
3 that was drafted with the original motion, and I will check
4 that and make sure it is OK.

5 THE COURT: As soon as we get that, I this we can
6 execute that and move forward on the issue of damages. All
7 right.

8 MR. MELLON: Your Honor, thank you for the opportunity
9 before you today. Thank you.

10 THE COURT: You're welcome.

11 (Adjourned)